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DECLARATION  
OF  
COVENANTS, CONDITIONS, RESTRICTIONS,  
LIENS AND RESERVATION OF EASEMENTS  
FOR  
CALDWELL ESTATES HOMEOWNERS ASSOCIATION, INC.

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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,  
LIENS AND RESERVATION OF EASEMENTS FOR  
CALDWELL ESTATES HOMEOWNERS ASSOCIATION, INC.

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, LIENS AND RESERVATION OF EASEMENTS FOR CALDWELL ESTATES HOMEOWNERS ASSOCIATION, INC. ("Declaration") is made this 3rd day of January, 1994, by Zaring Homes, Inc., an Ohio corporation ("Developer"), under the following circumstances:

WHEREAS, Developer is the owner of certain real property located in Williamson County, Tennessee, more particularly described in Exhibit A attached to this Declaration (the "Property").

WHEREAS, Developer desires to declare that the Property shall be held, sold and conveyed subject to the provisions of this Declaration.

WHEREAS, Developer has formed Caldwell Estates Homeowners Association, Inc., a Tennessee non-profit corporation (the "Association"), which shall be responsible for the administration and enforcement of the provisions of this Declaration.

WHEREAS, Developer owns or may acquire other real property in the vicinity of the Property that may be annexed to the Property and subjected to this Declaration (the "Additional Property").

NOW, THEREFORE, for the purposes of establishing and assuring a uniform plan for the development of the Property, and enhancing and protecting the value, desirability and attractiveness of the Property, Developer declares that the Property shall be held, occupied, sold and conveyed subject to this Declaration and be binding on all parties having any right, title and interest in the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

ARTICLE 1 DEFINITIONS

In addition to any definitions contained elsewhere in this Declaration, the following terms used in this Declaration shall have the meanings set forth in this Article 1.

1.1 Additional Property. "Additional Property" means other real property in the vicinity of the Property which is owned and/or acquired by Developer which may be annexed to Caldwell Estates.

1.2 Assessments. "Assessments" means the charges established by Article 2 of this Declaration.

1.3 Association. "Association" means Caldwell Estates Homeowners Association, Inc., a Tennessee non-profit corporation, which will own, operate and/or maintain the Common Property, and any successor organization that owns, operates and/or maintains the Common Property.

1.4 Board. "Board" means the Board of Directors of the Association.

1.5 Builder. "Builder" means any person or entity, other than the Developer, who, in the ordinary course of business, constructs a Dwelling Unit with or without accessory structures (i) for resale to, or on behalf of, a third party or, (ii) for their own use or the use of their family. A Builder may or may not be an Owner.

1.6 Bylaws. "Bylaws" means the Bylaws of the Association, as the same may be amended from time to time. A true copy of the Bylaws is attached hereto as Exhibit B and made a part hereof.

1.7 Charter. "Charter" means the Charter, filed with the Secretary of the State of Tennessee, incorporating the Caldwell Estates Homeowners Association, Inc., as a non-profit corporation under the provisions of T.C.A. § 45-52-101 et seq., as the same may be amended from time to time. A true copy of the Charter is attached hereto as Exhibit C and made a part hereof.

1.8 Common Expenses. "Common Expenses" means those costs and expenses incurred by the Association as described and defined in Article 3.6 of this Declaration.

1.9 Common Property. "Common Property" means all real and personal property owned by or leased to the Association including landscaping, garden walls or any monumentation located within any easement area as set forth on any Caldwell Estates Subdivision Plat for the common use and enjoyment of the Owners. This real and personal property includes, but is not limited to, the Property excluding the Lots, together with any of the following that may be located on such land: private drainage and sewer systems, parking areas, streams, ponds, pathways, parks, community buildings, clubhouses, recreational facilities, common utility lines and other improvements and facilities owned, operated or maintained by the Association. The Developer reserves the right, but is under no obligation to construct recreational facilities, including a swimming pool. In the event Developer elects to construct any such facility Developer shall cause this Declaration to be amended to reflect the same and such an amendment may be executed by the Developer without the joinder of any other party.

1.10 Declaration. "Declaration" means this instrument as the same may be amended from time to time as hereinafter provided.

1.11 Default. "Default" means any violation, breach or any failure to comply with, this Declaration or the Bylaws, or other standards, rules or regulations adopted pursuant to this Declaration.

1.12 Developer. "Developer" means exclusively Zaring Homes, Inc., an Ohio corporation, its successors and assigns.

1.13 Director. "Director" means any person elected or appointed to the Board.

1.14 Dwelling Unit. "Dwelling Unit" means any building or portion of a building situated upon a Lot designed and intended for use and occupancy as a residence by single persons or a family.

1.15 Caldwell Estates. "Caldwell Estates" means all phases of the record plat for Caldwell Estates Subdivision (formerly known as \_\_\_\_\_ Subdivision) consisting of all the property from time to time made subject to the provisions of this Declaration.

1.16 Lot. "Lot" means a portion of the Property shown as such on the record plat of Caldwell Estates Subdivision intended for the construction of a residence of record in Plat Book 19, page 53, Register's Office for Williamson County, Tennessee. Unless the context otherwise requires, the term "Lot" shall be deemed to include both the parcel of Land and the Dwelling Unit on that Land, if any, excluding Common Property.

1.17 Member. "Member" means any Owner who is a member of the Association as provided in the Charter.

1.18 Owner. "Owner" means the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, and including contract sellers on other forms of executory contracts for the sale of a Lot, but excluding those having such interest merely as security for the performance of an obligation.

1.19 Phase. "Phase" shall mean all of the land area encompassing a group of lots as designated on a recorded subdivision plat including streets and Common Property.

1.20 Property. "Property" means that real property located in Williamson County, Tennessee, more particularly described in Exhibit A to this Declaration. When portions of the Additional Property are subjected to this Declaration pursuant to Article 9, those portions shall then be deemed part of the Property.

## ARTICLE 2 ASSOCIATION MEMBERS AND VOTING

2.1 Members. Every Owner shall be a member of the Association, and such membership shall be appurtenant to and may not be separated from ownership of a Lot. Developer shall be a member of the Association so long as it qualifies as a Class A or Class B member as defined in Article 2.2.

2.2 Classes and Voting Rights. The Association shall have two (2) classes of voting memberships:

- A. CLASS A - Except as provided below, Class A members shall be all Owners except Developer. Class A members shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all persons with an interest shall be members. The vote for such Lot shall be exercised as the Owners determined, but in no event shall more than one (1) vote be cast with respect to any Lot notwithstanding the number of persons who may own an interest therein. The Board shall be entitled to suspend voting rights of a member in the Association during the time period in which the member has breached the provisions of this Declaration or any of the Bylaws, rules or regulations of the Association.
- B. CLASS B - Class B member shall be the Developer, and such member shall be entitled to such number of votes as will constitute seventy-five percent (75%) of the total voting power of the Association, so long as the Class B membership continues to exist. The Class B membership shall exist to the extent permitted by Tennessee Law and shall be converted to Class A membership upon the happening of either of the following events, whichever occurs earlier:
  - (a) The sale of seventy-five percent (75%) of the Lots as then included to individual Lot Owners;
  - (b) Upon the expiration of ten (10) years after the date this Declaration is filed for record.

Provided, further, that nothing herein shall be construed to prohibit the Class B member from converting its Class B membership to Class A membership with the results set forth above at any time earlier by written statement executed by Developer and delivered to the Association.

2.3 Administration by Association. Subject to the rights retained by Developer pursuant to this Declaration, the ownership, operation and maintenance of the Common Property and of the administration and enforcement of this Declaration shall be by the Association in accordance with the terms and provisions of this Declaration.

2.4 Compliance by Owners. Each Owner, tenant or occupant of a Lot shall comply with the provisions of this Declaration, Bylaws, rules and regulations of the Association and the decisions and resolutions of the Association or its representatives, all as lawfully amended from time to time. Failure to comply with any such provisions, rules and regulations, decisions and resolutions shall be grounds for an action to recover sums due as and for damages, and injunctive and appropriate relief.

### ARTICLE 3 ASSESSMENTS

3.1 Covenant of Payment; Creation of Lien. Each Owner of a Lot (other than Developer, except as hereinafter provided), by acceptance of a deed or other instrument of conveyance for a Lot, agrees to pay to the Association the annual assessments, special assessments and individual assessments (collectively, the "Assessments") provided in this Article 3. The Assessments (including late charges and costs of collection, as provided below) shall be a charge and lien on each Lot and shall be the personal obligation of the Owner of each Lot, to the extent and for the period provided in this Article 3.

3.2 Initial Assessment. Upon the initial conveyance of a Lot by the Developer or a Builder to Owner, the Owner shall pay an initial assessment of \$200.00. The initial assessment shall be used as working capital for the Association and not collected in lieu of any installments of the annual assessment. The initial assessment is non-refundable. No initial assessment shall be due on any Lot purchased from an Owner other than the Developer or a Builder, nor shall any initial assessment be due on any Lot purchased from the Developer by a Builder.

The initial assessment may be waived in the Board's sole discretion.

3.3 Annual Assessment. The Association shall be entitled to collect from all Owners an annual assessment for Common Expenses and other purposes described in Article 3.4 below. The annual assessment or prorated portion thereof for each Lot Owner in each respective Phase of Caldwell Estates shall commence on the first day of the month following the conveyance of the first Lot from Developer to an Owner in that phase of Caldwell Estates. Upon the initial conveyance of a lot in a Phase to an Owner, the Developer shall convey all Common Property within that specific Caldwell Estates Phase to the Association. The annual assessment shall be due and payable on such date or dates as determined by the Board. That portion of the annual assessments allocated to Lots owned by the Developer or a Builder may, at the Developer's or Builder's discretion, be paid in equal monthly installments. It shall be the duty of the Board to determine the amount of the annual assessments allocated to each Lot. Notwithstanding anything herein to the contrary, the annual assessment allocated to Lots owned by the Developer or a Builder, if they are not occupied, shall be equal to fifty percent (50%) of the annual assessment allocated to Lots owned and occupied by others. The Board shall make reasonable efforts to determine the assessment amount, by the first day of December of each year, and shall at that time, prepare a roster of the Lots and the portion of the assessments allocated thereto, which shall be kept in the office of the Association and shall be open for inspection by any Owner upon reasonable notice to the Board. Written notice of the assessment shall thereupon be sent to the Owners of all Lots subject thereto. All assessments levied by the Association under this Article shall be due and payable by the Owner within seven (7) days after a billing therefor. The Board shall be entitled to change the method of collection of assessments as it may, from time to time, elect.

Failure to act within any time period established in the Declaration shall not affect the rights of the Board to collect assessments as provided herein.

3.4 Calculation of Annual Assessment. Each Owner shall be responsible for and shall pay that portion of the annual assessment allocable to the respective Lot as determined by the Board. The Board shall have the right to require the annual assessment to be paid in periodic installments during the year or in a single installment as determined by the Board. Each calendar year the Board will establish a budget setting forth the estimate by the Board of the Common Expenses for the upcoming year. The annual assessment shall equal the estimate of the Common Expenses for the year, together with a reasonable addition to the reserves of the Association. The Board during any calendar year shall be entitled to increase the annual assessment for that year if it should determine that the estimated or current assessment is insufficient to cover Common Expenses for that year, provided that the Board shall give at least thirty (30) days advance notice thereof to the Owners. In the event that the annual assessment is less than the Common Expenses incurred for said year, the Board shall notify the Owners and furnish the Owners with a statement of the additional sums due and owing by the Owners, and the same shall be immediately due and payable.

3.5 Interest. Delinquent assessments shall bear interest at such interest rates as are from time to time established by the Board (which interest rate shall not exceed the maximum legal interest rate allowed to be charged to an individual under the laws of the State of Tennessee). The Board shall have the right to establish a late charge for delinquent payments in addition to interest charges.

3.6 Purpose of Annual Assessment. The annual assessment is established for the benefit and use of the Association and shall be used in covering all of the Common Expenses; the operation, maintenance, and repair of Common Property; other portions of the Property that the Association is obligated to repair under this Declaration; and the performance of all other duties and obligations to be performed by the Association under this Declaration. The Common Expenses may include, but are not limited to, the costs of employees' wages, materials, equipment, supplies, insurance premiums for the insurance of Common Property, officers and Directors liability insurance, rental fees for any Common Property leased to the Association, the cost of reasonable reserves for contingencies, replacements and working capital, taxes and assessments on the Common Property, management fees, legal and accounting fees, capital improvements and additions for Common Property, and all other costs and liabilities incurred by the Association in the exercise of its powers and duties pursuant to this Declaration or the Bylaws.

3.7 Special Assessment (Operating Shortfalls). If in any year the Common Expenses exceed the income from the annual assessment, the amount of any operating deficit may, at the Board's sole option, be charged to the Owners by means of a special assessment.

3.8 Individual Assessment. If any portion of the Common Property that the Association is obligated to maintain, repair and/or replace is damaged due to the willful or negligent act or omission of an Owner or Owner's guest or invitee, the Board shall have the right to undertake the necessary maintenance, repair or replacement. The choice between repair and replacement is in the sole discretion of the Board. The cost so incurred by the Board shall be assessed as an individual assessment against all Lots owned by the Owner responsible for the damage. No such assessment may be levied against Lots owned by the Developer without the written consent of Developer.

Individual and special assessments shall be determined by the Board as provided in this Article. Assessments shall become a lien on the Lots on the date the Board mails written notice of any such assessments to the Owners of any Lot subject thereto.

3.9 Personal Obligation. Any Assessments becoming due and payable during the period the Owner owns a Lot, together with any related penalties and costs of collection, shall constitute the personal obligation of that Owner and shall remain the personal obligation of that Owner until paid. This personal obligation shall not pass to an Owner's successor in title unless the obligation is perfected pursuant to Article 3.10 or expressly assumed by the successor in title. If the obligation is so assumed by a successor in title, the successor and the former Owner shall be jointly and severally liable for payment of the amount due and payable.

3.10 Perfection and Priority of Liens. If an Assessment on any Lot remains unpaid within the period established under Article 3.3, the amount unpaid together with any late penalty, costs and reasonable attorney fees, shall constitute a lien on that Lot in favor of the Association. The Association may perfect the lien by recording a notice of lien with the Register of Deeds of Williamson County, Tennessee. Nonpayment of any Assessment or an installment of an Assessment shall be deemed and is declared to be a condition or event that creates an interest in real estate. Each lien shall expire 5 years after the filing of a notice of lien, unless preserved by the filing of a new notice of lien or the commencement of foreclosure proceedings. The lien shall be prior to all other liens and encumbrances whatsoever, except real estate taxes and assessments, liens of record in favor of the United States of America, the State of Tennessee, or other governmental instrumentalities to the extent made superior by applicable law, and all bona fide recorded first mortgages.

3.11 Enforcement of Lien. Any lien established under this Declaration may be enforced by the Association in the same manner and to the same extent (including appointment of a receiver, foreclosure sale and deficiency judgment) and subject to the same procedures as in the case of foreclosure of a real property mortgage. In any enforcement proceeding, the amount that may be recovered by the Association shall include all costs of the proceeding, and, to the extent permitted by law, reasonable attorneys' fees. In any foreclosure sale, the Association may purchase the Lot.

3.12 Purchase at Foreclosure Sale. Any purchaser of a Lot at a foreclosure sale shall automatically become a member of the Association and shall be subject to all of the provisions of this Declaration. When the purchaser of a Lot acquires title to the Lot as a result of a foreclosure action, the purchaser shall not be solely liable for the share of the Assessments chargeable to the acquired Lot that became due prior to the acquisition of title to that Lot and not paid out of foreclosure proceeds due to lack of proceeds. Instead, such unpaid share of the Assessments that became due and payable prior to the date of purchase shall be deemed to be part of the Assessments collectible from all of the Lots, including that of the purchaser.

#### ARTICLE 4 COVENANTS AND RESTRICTIONS

4.1 Real Covenants. The provisions of this Declaration are for the benefit of Developer and Owners as provided herein, and run with the land and shall be binding on all parties and all persons claiming ownership under them, except as otherwise specifically provided herein.

4.2 Residential. All of the Lots shall be used for private residential purposes exclusively, and for no other purpose. No Lot, or Dwelling Unit thereon shall be used to provide shelter on a temporary, semi-permanent or permanent basis, to more than three persons unrelated to each other by blood, marriage or legal adoption. Further no Lot shall be used, under any circumstance as a "boarding house", "group home" or "lodging house". Boarding house, group home and lodging house are defined to include the temporary, semi-permanent, or permanent housing of any group of more than three persons unrelated by blood, marriage or legal adoption. No profession or customary home industry shall be conducted in or on any part of any Lot or improvement thereon without the written approval of the Board. These restrictions shall not apply to Developer in connection with construction offices, model homes and sales offices.

4.3 Activity Restrictions. Except for the activities of Developer prior to the date on which the Developer has sold and conveyed all Lots in Caldwell Estates:

A. No noxious or offensive trade shall be carried on upon any Lot or within any improvement situated upon the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or the Owners.

B. The maintenance, keeping, boarding or raising of animals, livestock or poultry of any kind, regardless of number, shall be and is hereby prohibited on any Lot or within any improvement situated upon the Lot, except that this shall not prohibit the keeping of dogs, cats, caged birds or aquarium fish as domestic pets provided they are not kept, bred, or maintained for commercial purposes, and provided they are kept according to the rules and regulations of the Association. No Owner shall permit or conduct an activity which may violate any applicable law affecting any Lot.

C. No burning of any trash, accumulation or storage of litter, new or used building materials, or trash of any kind shall be permitted on any Lot.

D. Except as provided herein, no commercial vehicle, trailer, truck, motorcycle, camper, camp truck, house trailer, boat or the like shall be kept or used upon the Property unless totally enclosed within an improvement or garage, so as not to be visible from the exterior thereof. No junk vehicle, inoperative or unlicensed motor vehicle, structure of a temporary character, mobile home, tent, shack, barn,

or other outbuilding, shall be kept or used upon any Lot, nor (except for bona fide emergencies) shall the major repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon.

E. Trash and garbage containers shall not be permitted to remain in the public view except on evenings before and days of trash collection.

F. No signs of any character shall be erected, posted, or displayed upon any Lot, except street and identification signs installed by the Association or the Developer and excepting one (1) temporary real estate sign not to exceed six (6) square feet in area erected upon any Lot advertising same upon the market for sale or rent.

G. No structure, planting or other material other than driveways or sidewalks shall be placed or permitted to remain upon any Lot which may damage or interfere with an easement for the installation or maintenance of utilities, or which may change, obstruct or retard direction or flow of any drainage channels.

H. No outside television or radio aerial or antenna, or other aerial or antenna, including satellite receiving dishes, for reception or transmission, shall be erected or maintained on any Lot.

I. No vegetable garden shall be larger than 300 square feet and must be maintained so as not to be unsightly. No Owner shall be allowed to store more than two cords of firewood on any Lot. Firewood must be neatly stacked and free of unsightly debris.

J. No oil drilling, quarrying, or mining operation shall be permitted on any Lot.

K. No above-ground swimming pool greater than one (1) foot in height shall be permitted on any Lot. In-ground pools shall be permitted subject to approval by the Board.

L. No tennis court shall be permitted on any Lot.

M. Swing sets, jungle-gyms, playhouses and similar yard equipment may not be placed, installed or maintained on any Lot without prior approval of the Board.

N. Mailboxes shall be approved by the Board.

O. No fence may be installed on any Lot except split rail or Lexington post and board style fences unless approved by the Board.

P. There shall be no violation of any rule or regulation for the use of any Common Property which may from time to time be adopted by the Board and promulgated among the members in writing. The Board is hereby in this Declaration authorized to adopt such rules.

Q. The Owner of a Lot upon which a portion of the Common Property is located shall not alter the Common Property and shall not otherwise adversely affect or interfere with the intended use of the Common Property.

R. There shall be no violation of any additional restrictions which may be, from time to time, reasonably imposed on the Owners by the Association in their use and enjoyment of the Lots.

4.4 Right of Association to Remove or Correct Violations. The Association and/or Developer may, in the interest of the general welfare of all the Owners, and after reasonable notice to an Owner, enter upon any Lot or the exterior of any improvement within reasonable hours on any day for the purpose of removing or correcting any violations or breach or any attempted violation of any of the covenants and restrictions contained in Article 4, or violation of the rules and regulations of the Board, or for the purpose of abating anything herein defined as a prohibited use or nuisance, provided, however, that no such actions

shall be taken without a resolution of the Board. Before any improvements constructed may be altered or demolished pursuant to this Article, judicial proceedings must be brought against the Owner, except any signs may be removed which are prohibited per Article 4.3(F) and except as set forth above.

## ARTICLE 5 COMMON PROPERTY

**5.1 Rights of Enjoyment in Common Property.** Each Owner shall have a right and a nonexclusive easement for the use and enjoyment of the Common Property. This right and easement shall be appurtenant to, and shall pass with the title to the Lot. Each Owner shall have a perpetual right of ingress and egress across the Common Property to that Owner's Lot, which shall be appurtenant to the ownership of the Lot. These rights and privileges shall be subject, however, to the following:

5.1.1 The right of the Board to levy annual and special assessments.

5.1.2 The right of the Board to adopt, enforce and amend reasonable rules and regulations pertaining to the use of the Common Property.

5.1.3 The right of the Board to suspend the right of any Owner to use any of the Common Property that is recreational in nature for any infraction of the Rules and Regulations relating to the Common Property, which period of suspension shall not exceed 60 days per infraction.

5.1.4 The right of the Board to suspend the right of any Owner to use any of the Common Property that is recreational in nature for the nonpayment or delinquency of any Assessments until paid.

5.1.5 All other easements, restrictions, and rights to which the Property is subject, including, but not limited to, any easements granted or reserved pursuant to Article 7.

5.1.6 The right of the Board to convey such Common Property to eliminate any existing setback violation, encroachment or zoning violation created by the original construction of Developer, free, clear and unencumbered from any and all easements and/or licenses granted pursuant to the Declaration.

**5.2 Subordination to Mortgage or Other Lien.** The rights and privileges provided in this Article shall be subordinate to any mortgage or other lien given by the Association for the purposes of acquiring, improving or maintaining the Common Property.

**5.3 Maintenance and Management of Common Property.** The Association shall provide for the maintenance, repair, replacement and management of all Common Property as provided in Article 3.6. The Association may fulfill this responsibility and any other duties and obligations of the Association under this Declaration by contracting with any professional management company upon such terms and conditions as shall be agreed upon by the Board and the management company.

**5.4 Use of Common Property by Developer.** In addition to the rights described in Article 5.1, Developer and its affiliates shall have the right during the period Developer and/or Builder owns Lots to use the Common Property, free of charge, for promotional, construction, management, maintenance, repair, remodeling, rental and sales purposes including the erection and maintenance of signage.

**5.5 Warranty.** Developer warrants, in accordance with the Industry Standards established by the Home Builders Association of Greater Cincinnati, its construction of improvements located on and/or comprising part of the Common Property. Developer makes no warranty, expressed or implied, for landscaping, seeding and sod, painting and caulking, expansion cracks in concrete, radon levels, shrinkage of wood and drywall nail pops. In the case of equipment or appliances installed as part of the Common Property (including but not limited to furnaces, air conditioners, heat pumps, dishwashers, water filters,

water softeners, water pumps, refrigerators, freezers, trash compactors, disposals, alarm systems, fire extinguishing systems, and irrigation systems, if any) the express or implied warranty of the manufacturer or supplier shall satisfy the Developer's obligations, and Developer's warranty established by this Article shall be limited to installation of such equipment or appliances.

Any warranty or warranties given pursuant to this Article shall be in effect for a period of one year, and shall commence on the date upon which the Common Property in issue is submitted to the provisions of this Declaration.

## ARTICLE 6 MAINTENANCE

6.1 General Maintenance. Subsequent to transfer of a Lot to an Owner, the Owner thereof shall keep the Lot well-landscaped and in a good and well-maintained condition. In the event that a portion of the Common Property encumbers a Lot, the Owner thereof shall be responsible for the maintenance of the Lot occupied or affected by the Common Property to the extent that the Association does not maintain the same.

6.2 Maintenance of Common Drives. All Owners who share a common driveway for ingress and egress to their Lots shall participate in the cost of the maintenance, repair or replacement of said common driveway based on their allocable use thereof. An Owner's allocable use shall be calculated by taking the longest distance within the common driveway which is being used for access by the Owner and dividing that distance by the sum of all the longest distances of every Owners' use of the common driveway. The maintenance, repair or replacement of a common driveway shall be agreed upon by the Owners of said Lots. In the event Owners fail to agree on the manner in which such maintenance, repair or replacement of the common driveway is to be performed, or the amount of each owner's allocable share thereof, then the same shall be determined by the Board upon application by an interested Owner. The decision of the Board shall be final and non-appealable. No parking shall be permitted on any portion of the common driveway which serves another Lot.

6.3 Private Sewer Line. The maintenance, repair or replacement of utility distribution lines and connections or private sewer laterals (which connect a Lot to a sewer main) and are located on or exclusively service the Lot shall be the responsibility of the Owner using the line, connections or laterals. If more than one Owner is using a line, connection or lateral and the Owners fail to agree on a formula to determine their share of the cost or in the event the Owners fail to agree on the manner in which such maintenance, repair or replacement shall be done, then the Board shall make such determination upon application by an interested Owner. The decision by the Board shall be final and non-appealable.

6.4 Private Drainage Easements and Private Storm Sewer Easements. The Association shall be responsible for the care and maintenance of all storm water control improvements located on the Common Property and/or within private drainage easements and/or private storm sewer easements (including detention basin structures, outlet structures, paved channels, headwalls and any and all other storm drainage structures) which are located outside the public right-of-way and as referred to on any plat of Caldwell Estates Subdivision except that the Owner of a Lot shall be responsible for normal lawn maintenance of areas within private drainage and storm sewer easements located upon its Lot. Such care and maintenance shall comply with and conform to the requirements, standards and specifications of the Williamson County Engineer, Codes Administration or such other agency as may have jurisdiction over such issues.

## ARTICLE 7 EASEMENTS AND LICENSES

7.1 Utility and Support Easements. Developer hereby grants, conveys, and reserves non-exclusive easements over the Property as indicated on any Caldwell Estates Subdivision Plat for the purpose of (i) the construction, reconstruction, alteration, and maintenance of all facilities necessary to provide access and utility services, including without limitation, driveways, telephone, water, gas, sanitary and storm sewer

services to each Lot and the Common Property, and (ii) the cutting, grading and maintaining slopes, retention walls and other supports, both for the benefit of each Lot and the Common Property. Developer further reserves the right to grant easements over any portion of the Property for any of the purposes set forth in this Section 7.1.

7.2 Common Property Easement. Developer hereby grants, conveys, establishes and reserves an exclusive easement for the benefit of the Developer and Association over the Common Property for the purpose of the construction, reconstruction, alteration, maintenance and use thereof by Developer and the Association. Developer further grants, conveys, establishes and reserves a non-exclusive easement over that portion of the Property not defined as the Common Property for the temporary occupation thereof in order to facilitate the exercise of any of the foregoing easements by either Developer or the Association.

7.3 Owner License. Developer hereby grants, conveys and reserves unto each Owner a non-exclusive license over the Common Property designated by Developer, or the Association upon the termination of the Class B membership therein, as defined in Article 2 for the use and enjoyment of the individual Owners and of the Lots, including without limitation, utilities, any sidewalks, roadways, clubhouses and similar amenities, if any.

7.4 Encroachment Areas. Each Owner is hereby declared to have an easement, and the same is hereby granted by the Developer, on behalf of itself, its successors and assigns, over all adjoining Lots, and the Common Property for the purpose of accommodating any encroachments due to original engineering errors, errors in original construction, settlement or shifting of a building, or any other similar cause. There shall be a continuing easement for the maintenance of said encroachment, provided however, that in no event shall an easement for encroachment be created in favor of an Owner, if said encroachment occurred due to the willful act of said Owner, or as part of construction other than original construction on the Lot by Developer.

7.5 Self-Help Easement. In the event that an Owner should violate any of the provisions of this Declaration, the Association is hereby granted a non-exclusive easement over the Lot of the violating Owner so as to permit the Association to occupy the same and to rectify such breach as set forth in Article 4.4 or 12.5 hereof.

7.6 Prohibition. No Owner, other than Developer, shall grant an easement, right-of-way or license over a Lot, without the prior consent of the Association.

7.7 Easement to Run with the Land. All easements and rights described in this Declaration shall run with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Developer, the Association, and any Owner, purchaser, mortgagee or other person now or in the future having an interest in any part of the Property.

## ARTICLE 8 ARCHITECTURAL CONTROL

8.1 Architectural Control. Except for initial construction of dwelling units and improvements by a Builder or the Developer which construction and improvements shall be under the exclusive control of Developer, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Property, nor shall any exterior addition or change (including any change in color) or alteration thereof be made until a detailed set of plans and specifications showing the nature, shape, heights, materials, color and location of the same shall have been submitted to and approved by the Board. Such plans and specifications shall be in such form and shall contain such information as the Board may reasonably require, including but not limited to any or all of the following: a site plan; proposed landscaping; patio and walkway locations; description of materials; location of lighting; architectural plans including cross-sections, floor plans and elevations; evidence of conformity with building codes; the exterior design, color and the location of the proposed topography of the surrounding Property. The Board's review of the plans and specifications shall include the following considerations: the continued maintenance of Caldwell Estates as

a residential community of high aesthetic quality; the promotion of the health, safety and welfare of all Owners; the preservation, beautification and maintenance of the Property and all structures thereon; the preservation and promotion of environmental quality; and the assurance of adequate water, sewer and drainage facilities and other utilities and services. the Board shall either (i) approve the plans and specifications or (ii) disapprove them or (iii) approve them with conditions or qualifications. The approval of the plans and specifications by the Board shall not constitute a representation or warranty by it as to the quality of the workmanship, materials or architectural or engineering design covered thereunder, or the proposed work's feasibility or compliance with any applicable laws. In the event the Board fails to approve or disapprove such design and location within thirty (30) days after plans and specifications have been submitted to it, approval will not be required and this Article 8 will be deemed to have been fully complied with. Such submission to the board shall be in person, or by registered or certified mail, with return receipt, directed to the Association manager, or if there is no manager, to its President.

8.2 Enforcement. In the event of a violation of the provisions of this Article 8, the Association shall have the right to enforce this Article by any proceedings authorized in this Declaration, the Bylaws, or by law.

8.3 Fees. The Board may charge reasonable fees for the processing of said plans and specifications and any inspection of a Lot in connection therewith. Fees shall be paid at the time the plans and specifications are submitted to the Board.

8.4 Approval of Plans by Developer. Each Builder, prior to initial construction of a Dwelling Unit and/or accessory structures on a Lot shall secure the Developer's approval of plans and specifications (as defined in paragraph 8.1, above). Approval of plans and specifications by the Developer shall be conducted in the same manner and in the same time frame as set forth in paragraph 8.1, above. The Developer shall have all legal and equitable remedies available under this Declaration to enforce its decision against Builders, Owners, or their successors.

8.5 Specific requirements. All Dwelling Units shall be constructed of a minimum of fifty percent (50%) brick exteriors. The minimum finished floor area of any Dwelling Unit shall be 1,800 square feet. No exposed concrete block foundations will be allowed. All foundations will be covered above grade with brick, stone or siding. Each Dwelling Unit shall include an enclosed two car garage. No Owner shall be permitted to further subdivide any Lot except in accordance with the requirements of the Planning Commission of Williamson County.

#### ARTICLE 9 ANNEXATION AND ALTERATIONS TO THE PROPERTY

The provisions of this Declaration are imposed upon the Property and the Dwelling Units thereon. Developer shall have the right at any time to remove any portion of the Property from the scope of this Declaration or to subject the Additional Property to the provisions of the Declaration by the execution and recording a supplement to the Declaration. Developer further shall have the right to reconfigure individual Lots by adoption of a supplement to the Declaration.

The Developer may annex to this Declaration the Additional Property without the consent of the members of the Association, within ten (10) years after the date this Declaration is filed for record. However, the Developer is not bound to annex any of said property to this Declaration, and until such time as any of said property is annexed, the same shall not be subject to the provisions of this Declaration.

Any annexations made pursuant to this Article 9, or otherwise, shall be made by recording a supplement to this Declaration with the Register of Deeds of Williamson County, Tennessee, which Supplementary Declaration shall extend this Declaration to such annexed property. The Supplementary Declaration may contain additional covenants, conditions, restrictions, easements and liens as the Developer shall deem appropriate for the purpose of completing the development of the Property.

ARTICLE 10 INSURANCE

10.1 Maintenance of Liability Insurance. The Association, as a Common Expense, shall insure itself, the Board, Developer, all Owners and members of their respective families and other persons residing with them in the residences, their tenants, and all persons lawfully in possession or control of the Lots, against liability for bodily injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from, the Common Property and the portions of the Lots to be maintained by the Association, such insurance to afford protection with limits of not less than Three Hundred Thousand Dollars (\$300,000.00) with respect to bodily injury, disease, illness or death suffered by any one person, of not less than Five Hundred Thousand Dollars (\$500,000.00) with respect to bodily injury, disease, illness or death suffered by more than one person in any one occurrence, and not less than One Hundred Thousand Dollars (\$100,000.00) with respect to damage to or destruction of property arising out of one accident.

10.2 Other Insurance. The Association shall have a right to maintain officers and Directors liability insurance and such insurance or extended coverage insurance insuring the Common Property in such amounts, against such perils, for such time periods and under such circumstances as the Association through its Board determines, in their sole discretion, is appropriate and in the best interest of Caldwell Estates Subdivision.

10.3 Insurance Limitation. Except as otherwise provided in Article 10.1, the policies of insurance maintained by the Association pursuant to this Article 10, shall not insure against liability for personal injury or property damage arising out of or relating to the Lots. Each Owner shall be responsible for obtaining insurance with respect to any Lot and improvements thereon and the contents thereof and any personal liability to the extent not covered by insurance provided in this Article 10. All insurance procured by the Association shall have such deductibles as the Board shall, from time to time, determine necessary and appropriate.

10.4 Dwelling Unit Insurance. The Association shall have no responsibility or liability to obtain or maintain any type of insurance upon any Dwelling Unit constructed on Lots and such insurance shall be the sole responsibility of the Owner.

10.5 Waiver of Subrogation. To the extent the Association maintains insurance for damage or injury upon all or any portion of the Common Property and to the extent that the following provision does not invalidate any policy or policies of insurance maintained by the Association, the Association shall and does hereby waive and release Developer and each Owner and their respective officers, agents, employees, families and guests from and against any and all liability for any loss, damage or injury or property damage resulting from any act or peril covered by such policies of insurance maintained by the Association; provided, however, such release shall apply only to the extent that the Association has had actual recovery from said policies of insurance.

10.6 Premiums. All premiums paid for any insurance procured by the Association hereunder shall be deemed to be a Common Expense.

10.7 Insurance Proceeds. Any and all insurance proceeds received by the Association shall be held by the Association and used for the benefit of the Owners, the Common Property and the Lots as the Board shall, from time to time, determine. No Owner shall have any right in or to the proceeds of any such insurance.

10.8 Casualty. In the event that any portion of the Common Property is damaged or destroyed, the Association shall restore the affected portion of the Common Property to substantially its condition existing immediately prior to such damage or destruction to the extent reasonably practicable. If such damage or destruction is not covered by insurance maintained by the Association or the proceeds are insufficient to fully restore the affected portion of the Common Areas as a result thereof, then the Association shall effect the restoration thereof in such a manner as the Association may determine

appropriate in its sole judgment and shall levy a special assessment against each Owner for any deficiency in proportion to its respective share thereof.

#### ARTICLE 11 REAL ESTATE TAXES AND ASSESSMENTS

11.1 Real Estate Taxes. The Owners shall be responsible for and pay all taxes and assessments, general and special, levied or imposed upon the Lot and its improvements.

11.2 Allocation. Prior to the time the Assessor of Williamson County, Tennessee establishes separate tax parcels for each Lot, Developer shall allocate the real estate taxes and assessments upon the Property among and against the Lots and against the remainder of the Property in a fair and equitable manner so as to allocate the real estate taxes and assessments charged in common to the various Lots as well as the remainder of the Property within Caldwell Estates Subdivision. The allocation by Developer made in accordance with the terms hereof shall be binding upon all Owners.

11.3 Common Property. Taxes and assessments, general and special, charged against the Common Property of Caldwell Estates Subdivision shall be deemed a Common Expense. Assessments, general and special, charged against Caldwell Estates Subdivision shall be paid by the Owners as set forth in Article 3 hereof.

#### ARTICLE 12 MISCELLANEOUS

12.1 Duration. Except where permanent or perpetual easements or other permanent rights or interests are herein created the terms and provisions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association or by any of the Lot Owners, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date of recordation of this Declaration, after which the Declaration shall be automatically extended for successive periods of ten (10) years in perpetuity, unless a recorded instrument signed by the Owners of two-thirds (2/3) of the Lots has been recorded, agreeing to terminate the Declaration.

12.2 Assignment. Developer shall be entitled to assign to any party by a separate recorded instrument or instruments all or a portion of the rights and benefits contained in this Declaration which are reserved to the Developer. In the event of any assignment, said party shall be deemed to be a "Developer" to the extent of the rights and benefits hereunder which are assigned. Any such rights and benefits of the Developer contained herein shall not be assignable or transferable without an express assignment hereof by Developer. Such assignments may transfer rights and benefits exclusively or non-exclusively.

12.3 Amendment. The Declaration may be amended, from time to time as follows:

(a) Developer: Developer reserves the right and power and each Owner by acceptance of a deed to a Lot is deemed to and does grant to the Developer a Power of Attorney coupled with an interest which shall run with the title to the Lot, and shall be irrevocable except by Developer for a period of ten (10) years from the date hereof, to amend this Declaration to the extent necessary to conform to any requirements imposed or requested by any governmental agency, public authority or financial institution, (including the U.S. Department of Housing and Urban Development, the U.S. Veteran's Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or similar agency), without the approval of the Lot Owners, or to the extent necessary to enable Developer to meet any other reasonable need or requirement including those associated with completion of the development of the Property and to facilitate the making and marketing of first mortgages upon any of the Lots or for the purpose of electing to construct recreational facilities. Any amendment must be recorded and shall be effective upon recording.

(b) Lot Owners: This Declaration may be amended at any time by an instrument executed by persons or entities able to exercise seventy-five (75%) percent of the voting power of both classes of the Association and approved by eligible first mortgage holders representing Lots having at least fifty-one (51%) percent of the voting power; provided, however, that Developer's rights hereunder may not be amended or altered without Developer's prior written consent. Any amendment must be recorded and shall be effective upon recording.

12.4 Personal Liability. Nothing in this Declaration, the Charter, or Bylaws, of the Association, or any rules or regulations enacted pursuant to any of the aforesaid, shall impose personal liability upon any Director or any officer of the Association acting in their capacity as such, for the maintenance, repair or replacement of any Dwelling Unit or part of the Common Property or give rise to a cause of action against any of them except for damages resulting from their own willful omissions or misconduct and each person who becomes an Owner or Member hereby releases and discharges all persons now or hereafter serving as an officer or Director, or both, from any liability for injury or damages to such Member or Owner or to such Member's or Owner's property and covenants not to initiate any legal proceedings against any such person or persons unless such person is covered by insurance and in such event the amount of recovery shall be limited to the amount of insurance.

12.5 Notices. Any notice required to be sent to a Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, postage prepaid, to the last known address of the person who appears as Member or Owner appearing on the records of the Association at the time of such mailing.

12.6 Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, to restrain and/or to enjoin violation and/or to recover damages, including the cost of such proceeding and reasonable attorney fees, and against the Property to enforce any lien created by these covenants; and the failure or forbearance by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event of a violation of the provisions of the Charter or Bylaws, the Association shall have the right to enforce any covenant or restriction by proceedings authorized in this Declaration, the Charter, Bylaws or by law.

12.7 Severability. Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way effect any other provision hereof, each of which shall remain in full force and effect.

12.8 Conflicts. In the case of any conflict between this Declaration and either the Charter or Bylaws of the Association, the Declaration shall control.

12.9 Rights of Mortgage Holders. Any mortgage of a Lot may pay any taxes or other charges which are in default and which may or have become a charge against the Common Property or any part thereof and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage upon the lapse of a policy, for such Common Property, and such mortgagee making such payments shall be owed immediate reimbursement therefor from the Association.

The holder, insurer or guarantor of the first mortgage on any Lot shall be entitled to timely written notice of the following:

A. Any condemnation or casualty loss that affects either a material portion of the project or the Lot securing its mortgage;

B. Any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage;

C. A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

D. Any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

A mortgage holder, insurer or guarantor shall send a written request to the Association, stating both its name and address and the Lot number or address upon which it holds a mortgage, in order to obtain the foregoing notices.

**12.10 Condemnation.**

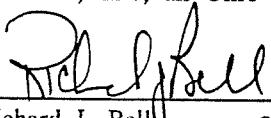
(a) In the event any Lot or any portion thereof, is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the net proceeds of any award or settlement shall be the property of the Owner and the holder of the first mortgage, to the extent of their respective interests. Each Owner shall give the holder of a first mortgage on the Owner's Lot timely written notice of such proceeding or proposed acquisition.

(b) In the event any Common Property or any portion thereof is made the subject matter of any condemnation or eminent domain proceedings or other sought to be acquired by a condemning authority, the proceeds of any award or settlement shall be distributed to the Association for the common benefit of the Owners and their mortgagees, as their interests appear.

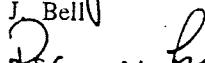
IN WITNESS WHEREOF, Developer has executed this instrument at the time and place set forth above.

Zaring Homes, Inc., an Ohio corporation

By:

  
Richard J. Bell

Title:

  
Regional President

STATE OF TENNESSEE )  
COUNTY OF DAVIDSON )

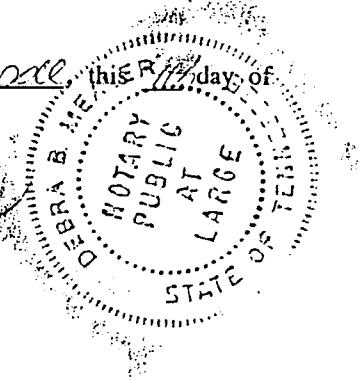
Before me, Debra B. Meeker, a Notary Public in and for the County and State aforesaid, personally appeared RICHARD J. BELL, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and acknowledged himself to be President of Zaring Homes, Inc., the within named bargainer, an Ohio corporation, and that he as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

Witness my hand and seal, at office in Brentwood, TENNESSEE, this 17 day of  
January 1993.

Debra B. Meeker  
Notary Public

My Commission Expires:

9-21-96



## THE PROPERTY DESCRIPTION

A certain tract or parcel of land in the 14th Civil District of Williamson County, Tennessee, described as follows:

## Tract No. I:

Beginning at a post in Johnson's North boundary line and running North 4 1/2 degrees East 77 78/100 poles to W. J. Sands' South boundary line; thence with same South 78 degrees West 22 1/2 poles south 56 1/2 degrees West 10 1/5 poles; thence South 59 degrees West 14 12/100 poles to a fence, W. J. Sands' corner; thence South 24 degrees West 64 Poles to the South margin of the Murfreesboro Pike; thence South 87 degrees East 34 1/2 poles; thence South 4 degrees West 12 2/3 poles to center of pike; thence South 64 1/2 degrees East 13 42/100 poles; thence South 75 3/4 degrees East 12 poles; thence North 4 degrees East 20 1/5 poles to Johnson's corner; thence South 86 degrees East 4 58/100 poles to the beginning, containing 25 acres, by calculation.

## Tract No. II:

Beginning at a point in the center of the Nolen Lane, running thence North 88 West 6 1/2 poles to a post; thence North 88 1/2 West 44 6/100 poles; thence North 4 1/2 East 77 54/100 poles to W. J. Sands' survey; thence South 88 1/2 East 49 82/100 poles; thence South 4 West 71 8/10 poles to the beginning, containing 24 acres, more or less.

## Tract No. III

Lying on the North side of the Murfreesboro Road, immediately south of the property of T. O. Murrey, and bounded on the north by said T. O. Murrey, on the East by T. O. Murrey; on the south by the Murfreesboro Road, and on the west by the Murfreesboro Road, containing about one half of one acre, more or less.

Being the same property conveyed to Herman O. Caldwell and wife, Agnes Huff Caldwell by deed from Thomas O. Murrey and wife, Myrtle J. Murrey of record in Book 99, Page 74, Register's Office for Williamson County, TN.

## CONTINUED

unimproved (  )  
This is improved (  ) property, known as 4060 Murfreesboro Road, Franklin, TN 37064  
(House Number) 4060 (Street) Murfreesboro Road (P.O. Address) Franklin (City or Town) TN 37064 (Postal Zip)

**EXHIBIT "B"**

**BYLAWS**

**OF**

**CALDWELL ESTATES HOMEOWNERS ASSOCIATION, INC.**

**BYLAWS  
OF  
CALDWELL ESTATES HOMEOWNERS ASSOCIATION, INC.**

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## ARTICLE 1: DEFINITIONS

The words defined in the Declaration of Covenants, Conditions, Restrictions, Liens and Reservation of Easements for Caldwell Estates Homeowners Association, Inc. recorded in Book \_\_\_, Page \_\_\_, Registers' Office for Williamson County, Tennessee (hereinafter referred to as the "Declaration"), shall have the same meaning in these Corporate Bylaws.

## ARTICLE 2: OFFICES

**2.01. Registered Office.** The registered office of the corporation shall be at Zaring Homes, Inc., One Brentwood Commons, Suite 220, 750 Old Hickory Boulevard, Brentwood, Tennessee 37027, and the name of the registered agent of the corporation is Richard J. Bell.

**2.02. Other Offices.** The corporation may also have offices at such other places both within and without the State of Tennessee as the Board of Directors may from time to time determine or the business of the corporation may require.

## ARTICLE 3: MEMBERS

**3.01. Membership.** Each Owner shall be a Member of the corporation and no other person or entity shall automatically be entitled to membership. No Member shall be required to pay any consideration whatsoever solely for his membership in the corporation.

## ARTICLE 4: MEETINGS OF MEMBERS

**4.01. Place of Meetings.** Meetings of the Members of the corporation may be held at a place to be determined by the Board of Directors within Davidson and Williamson Counties, Tennessee.

**4.02. Annual Meeting.** Unless otherwise specified in a written notice from the Board of Directors, an annual meeting of the Members of the corporation shall be held each year on the second Thursday of the third month following the close of the fiscal year if not a legal holiday, and if a legal holiday, then on the next secular day following, at 7:00 p.m. at which time the Members shall elect a Board of Directors, and shall transact such other business as may properly be brought before the meeting. Provided, however, the annual meeting must be held no later than forty-five (45) days from the original scheduled date. The first regular annual meeting of the Members may be held, subject to the terms hereof, on any date, at the option of the Board of Directors; provided, however, that the first meeting may (if necessary to comply with Federal Regulations) be held no later than the earlier of the following events: (a) four months after all of the Lots have been sold by the Developer; or (b) three years following conveyance of the first Lot by the Developer.

**4.03. Special Meeting.** Special meetings of the Members, for any purpose or purposes, may be called by the president, the Board of Directors, or by Members having not less than five (5%) percent of the total percentage values of those votes entitled to be cast at such meeting. Business transacted at all special meetings shall be confined to the objects stated in the notice of such meeting.

**4.04. Notice.** Written or printed notice stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than fifteen (15) nor more than sixty (60) days before the date of the meeting, either personally or by mail, by or at the direction of the president, the secretary, or the officer or person calling the meeting, to each Member of the corporation entitled to vote at such meeting.

**4.05 Quorum.** The presence in person or by proxy of more than ten (10%) percent of the percentage values of those votes entitled to be cast at a meeting of the Members and at least ten percent (10%) of the percentage values of each class of Members shall constitute a quorum at all meetings of the Members for the transaction of business. If, however, the Members entitled to vote thereat, present in person or represented by proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented any business may be transacted at which might have been transacted at the meeting as originally notified.

**4.06. Majority Vote; Withdrawal of Quorum.** When a quorum is present at any meeting, the vote of the holders of more than fifty per cent (50%) of the percentage values of those votes entitled to be cast of Members qualified to vote and present in person or by proxy, shall decide any question brought before such meeting, unless the question is one upon which by express provision of the Declaration, the Charter of the corporation or these Bylaws, a different vote is required, in which case such express provision shall govern and control the decision of such question. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum.

**4.07. Method of Voting; Proxies.** Each Member shall be entitled to a vote for each Lot owned by such Member. No Member, other than the Developer, shall be entitled to vote at any meeting of the corporation until such Member has presented evidence of ownership of a Lot in Caldwell Estates to the Board of Directors. The vote of each Member may only be cast by such Member or by a proxy given by such Member to his duly authorized representative bearing a date not more than eleven months prior to such meeting. Such proxy shall be filed with the secretary of the corporation prior to or at the time of the meeting. If title to a Lot shall be in the name of two or more persons as Coowners, all of such persons shall be Members of the corporation and are referred to herein as "Joint Coowners". Any one of such Joint Coowners may vote at any meeting of the Members of the corporation and such vote shall be binding upon such other Joint Coowners who are not present at such meeting until written notice to the contrary has been received by the Board of Directors in which case the unanimous vote of all such Joint Coowners (in person or by proxy) shall be required to cast their vote as Members. If two or more of such Joint Coowners are present at any meeting, their unanimous action shall also be present at any meeting, their unanimous action shall also be required to cast their vote as Members of the corporation.

**4.08. Cumulative Voting Denied.** Cumulative voting for Directors shall not be permitted.

## ARTICLE 5: DIRECTORS

**5.01. Management.** The business and affairs of the corporation shall be managed by its Board of Directors who may exercise all such powers of the corporation and do all such lawful acts and things as are not by statute, the Declaration, the Charter, or these Bylaws, directed or required to be exercised or done by the Members.

**5.02. Number; Qualifications; Election; Term.** The Board of Directors shall consist of three (3) Directors, each of whom shall be a Member of the Association or a partner or employee of the Developer, or its subsidiaries or affiliates. The Members of the initial Board of Directors shall serve terms of two (2) years until the annual meeting of Members following such election in the designated term of office of such Directors. Each Director elected to replace an original Director upon the expiration of his term of office shall serve for a term of office ending with the third annual meeting of Members following his election or until his successor shall be elected and shall qualify. The Directors shall be appointed by a nominating committee appointed by the Board of Directors, or in the event the Board of Directors cannot or does not appoint such nominating committee, such nominating committee shall be appointed by the holder or holders of a majority of the percentage values of those votes entitled to be cast at any meeting of the Members. Directors shall serve without compensation.

**5.03. Removal; Change in Number; Vacancies.** Any Director may be removed either for or without cause, at any special meeting of the Members of the corporation by the affirmative vote of a majority of the Members present in person or by proxy at such meeting and entitled to vote, if notice of the intention to act upon such matter shall have been given in the notice calling such meeting. If any vacancy occurs in the Board of Directors, caused by death, resignation, retirement, disqualification or removal from office of any Director or otherwise, a successor or successors may be chosen at a special meeting of Members called for that purpose, and each successor Director so chosen shall be elected for the unexpired term of his predecessor in office. Any Directorship to be filled by reason of an increase in the number of Directors shall be filled by election at an annual meeting of Members or at a special meeting of Members called for that purpose.

**5.04. Place of Meetings.** The Directors of the corporation shall hold their meetings, both regular and special within Davidson or Williamson Counties, Tennessee.

**5.05. Annual Meetings.** The annual meeting of each newly elected Board shall be held without further notice immediately following the annual meeting of Members of the corporation, and at the same place, unless by unanimous consent of the Directors then elected and serving such time or place shall be changed.

**5.06. Regular Meetings.** Regular meetings of the Board of Directors may be held without notice at such time and place as shall from time to time be determined by the Board.

**5.07. Special Meetings.** Special meetings of the Board of Directors may be called by the president on a three (3) days notice to each Director, either personally or by mail or by telegram; special meetings shall be called by the president or secretary in like manner and on like notice on the written request of two (2) Directors. Except as may be otherwise expressly provided by statute, the Charter or these Bylaws, neither the business to be transacted at, nor the purpose of, any special meeting need be specified in a notice or waiver of notice.

**5.08. Quorum.** At all meetings of the Board of Directors the presence of a majority of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business and the act of a majority of the Directors, when present at any meeting at which there is a quorum, shall be the act of the Board of Directors. If a quorum shall not be present at any meeting of Directors, the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

**5.09. Committees Having Board Authority.** The Board of Directors may, by resolution approved by vote or written consent by a majority of the whole Board, designate an Architectural Control Committee, a Nominating Committee for members of the Board of Directors and such other committees as deemed necessary to consist of two (2) or more of the Directors of the corporation. Any such committee, to the extent provided in said resolution, shall and may exercise all of the authority of the Board of Directors in the management of the business and affairs of the corporation, except where action of the full Board of Directors is required by statute or the Charter.

**5.10. Other Committees.** Other committees not having and exercising the authority of the Board of Directors in the management of the affairs of the corporation may be designated and appointed by a resolution adopted by a majority of the Directors at a meeting at which a quorum is present, or by the president thereunto authorized by a like resolution of the Board of Directors. Membership on such committees may, but need not be, limited to Directors or Members of the corporation.

**5.11. Procedure.** All committees shall keep regular minutes of their proceedings and shall report the same to the Board when required.

**5.12. Managing Agents.** The Board of Directors may employ for the corporation a management agent at a compensation established by the Board of Directors and such management agent shall perform such duties and services with respect to the Caldwell Estates Subdivision as the Board of Directors shall authorize, and the Board of Directors may delegate to such management agent such duties with respect to management, repair and maintenance of the Caldwell Estates Subdivision which are not by statute, the Declaration, the Charter or these Corporate Bylaws, required to be performed by or have the approval of the Board of Directors or the Members of the corporation.

## ARTICLE 6: NOTICES

**6.01. Method.** Whenever notice is required to be given to any Director or Member, and no provision is made as to how such notice shall be given, it shall not be construed to mean personal notice, but any such notice may be given in writing, by mail, postage prepaid, addressed to such Director or Member at such address as appears on the records of the corporation. Any notice required or permitted to be given by mail shall be deemed to be given at the time when the same shall be thus deposited in the United States mails as aforesaid.

**6.02. Waiver.** Whenever any notice is required to be given to any Member or Director of the corporation a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated in such notice, shall be deemed equivalent to the giving of such notice.

## ARTICLE 7: OFFICERS

**7.01. Number; Titles.** The officers of the corporation shall be elected by the Directors from among the members of the Board of Directors and shall be a president, a secretary and a treasurer. Any two (2) or more offices may be held by the same person except the offices of president and secretary shall not be held by the same person.

**7.02. Election.** The Board of Directors at its first meeting after each annual meeting of Members shall choose a president, a secretary, and a treasurer, all of whom shall be members of the Board.

**7.03. Other Officers.** The Board of Directors may appoint such other officers and agents as it shall deem necessary, who shall be appointed for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

**7.04. Salaries.** The salaries of all officers of the corporation, if any, shall be fixed by the Board of Directors.

**7.05. Term of Office; Removal.** Each officer of the corporation shall hold office until the annual meeting of the Board of Directors next following his election and thereafter until his successor is chosen and qualified in his stead or until his death or until his resignation or removal from office. Any officer or agent elected or appointed by the Board of Directors may be removed at any time by the affirmative vote of a majority of the whole Board of Directors, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. If the office of any officer become vacant for any reason, the vacancy may be filled by the Board of Directors.

**7.06. President.** The president shall be the chief executive officer of the corporation; he shall preside at all meetings of the Members and the Board of Directors, shall have general and active management of the affairs of the corporation, shall see that all orders and resolutions of the Board are carried into effect, and shall perform such other duties as the Board of Directors shall prescribe.

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

**7.08. Treasurer.** The treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements of the corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the corporation in such depositories as may be designated by the Board of Directors. He shall disburse the funds of the corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the president and Directors, at the regular meetings of the Board, or whenever they may require it, an account of all his transactions as treasurer and of the financial condition of the corporation, and shall perform such other duties as the Board of Directors may prescribe. If required by the Board of Directors, he shall give the corporation a bond in such form, in such sum, and with such surety or sureties as shall be satisfactory to the Board for the faithful performance of the duties of his office and for the restoration to the corporation, in case of his death, resignation, retirement, or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the corporation.

#### ARTICLE 8: MISCELLANEOUS PROVISIONS

**8.01. Reserves.** There may be created by resolution of the Board of Directors such reserve or reserves as the Directors from time to time, in their discretion, think proper to provide for contingencies, or to repair or maintain any portion of Caldwell Estates, or for such other purposes as the Directors shall think beneficial to the corporation, and the Directors may modify or abolish any such reserve in the manner in which it was created.

**8.02. Checks.** All checks or demands for money and notes of the corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

**8.03. Fiscal Year.** The fiscal year of the corporation shall be fixed by resolution of the Board of Directors.

**8.04. Seal.** The corporate seal, if any, shall be in such form as may be determined by the Board of Directors. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

**8.05. Indemnification.** The corporation shall indemnify any Director, officer, or employee, or former Director, officer, or employee of the corporation, against expenses actually and necessarily incurred by him, and any amount paid in satisfaction of judgments, in connection with any action, suit or proceeding, whether civil or criminal in nature, in which he is made a party by reason of being or having been such a Director, officer, or employee (whether or not a Director, officer or employee at the time such costs or expenses are incurred by or imposed upon him) except in relation to matters as to which he shall be adjudged in such action, suit, or proceeding to be liable for gross negligence or willful misconduct in the performance of duty. The corporation may also reimburse to any Directors, officer or employee the reasonable costs of settlement of any such action, suit or proceeding, if it shall be found by a majority of a committee of the Directors not involved in the matter of controversy, whether or not a quorum, that it was to the interests of the corporation that such settlement be made and that such Director, officer or employee was not guilty of gross negligence or willful misconduct. Such rights of indemnification and

reimbursement shall not be deemed exclusive of any other rights to which such Director, officer, or employee may be entitled by law or under bylaw, agreement, vote of Members or otherwise.

**8.06. Inconsistencies.** In the event these Bylaws shall be inconsistent with the Declaration, then the Declaration shall be controlling.

**8.07. Amendment of Bylaws.** These bylaws may not be altered, amended or repealed except by the affirmative vote of more than fifty (50) per cent of the percentage values of those votes entitled to be cast by Members qualified to vote.

**8.08. Table of Contents; Headings.** The table of contents and headings used in these bylaws have been inserted for administrative convenience only and do not constitute matter to be construed in interpretation.

#### CERTIFICATION

I hereby certify that the foregoing Bylaws were adopted by the Members of Caldwell Estates Homeowners Association, Inc. on the 3<sup>rd</sup> day of January 1994.

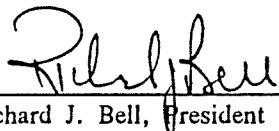
  
\_\_\_\_\_  
Richard J. Bell, President

EXHIBIT "C"

**CHARTER OF CALDWELL ESTATES  
HOMEOWNERS ASSOCIATION, INC.**

**CHARTER  
OF  
CALDWELL ESTATES HOMEOWNERS ASSOCIATION, INC.**

Pursuant to the provisions of Section 48-52-101 of the Tennessee Non-Profit Corporation Act, as amended, the undersigned incorporator delivers the following Charter for filing with the Secretary of State:

**ARTICLE I**

The name of the corporation is Caldwell Estates Homeowners Association, Inc.

**ARTICLE II**

The corporation is a mutual benefit corporation and is not organized for profit.

**ARTICLE III**

The address of the principal office of the corporation in the State of Tennessee is c/o Zaring Homes, One Brentwood Commons, Suite 220, 750 Old Hickory Boulevard, Brentwood, Williamson County, Tennessee 37027.

**ARTICLE IV**

The address of the registered office of the corporation shall be Zaring Homes, Inc., One Brentwood Commons, Suite 220, 750 Old Hickory Boulevard, Brentwood, Williamson County, Tennessee 37027. The registered agent at that office shall be Richard J. Bell.

**ARTICLE V**

The purposes for which the corporation is organized are:

(a) To operate, manage, maintain and administer the affairs of Caldwell Estates subdivision established pursuant to that certain Declaration of Covenants, Conditions, Restrictions, Liens and Reservation of Easements for Caldwell Estates dated January 05, 19934 filed for record in Book 1154 page 299-329 Register's Office for Williamson County, Tennessee, and the Plat filed for record in Plat Book 19 page 53, in said Register's Office (hereinafter referred to as the "Declaration" and the "Plat", respectively).

(b) To enter into and perform any contract and to exercise all powers which may be necessary or convenient to the operation, management, maintenance and administration of the affairs of Caldwell Estates in accordance with the Declaration.

**ARTICLE VI**

The corporation is to have members, and each Owner, as that term is defined in the Declaration, shall be a member of the corporation and no other person or entity shall be entitled to membership. No Owner shall be required to pay any consideration whatsoever solely for his membership in the corporation.

## ARTICLE VII

(a) The share of an Owner in the funds and assets of the corporation cannot be assigned, pledged or transferred in any manner except as an appurtenance to his Lot.

(b) Each Owner shall be entitled to a vote, in accordance with the Lot Classification set forth in the Declaration.

(c) No Owner other than the Developer shall be entitled to vote at any meeting of the corporation until he has presented evidence of ownership of a Lot in Caldwell Estates to the corporation. The vote of each Owner may only be cast by such Owner or by a proxy given by such Owner to his duly authorized representative. If title to a Lot shall be in the name of two or more persons as Owners, any one of such Owners may vote as the Owner of the Lot at any meeting of the corporation and such vote shall be binding on such other Owners who are not present at such meeting until written notice to the contrary has been received by the corporation, in which case the unanimous action of all such Owners (in person or by proxy) shall be required to cast their vote as Owners. If two or more of such Owners are present at any meeting of the corporation, then unanimous action shall also be required to cast their vote as Owners.

(d) An Owner in default with respect to any provision of the Declaration shall not be entitled to vote at any meeting of the corporation so long as such default is in existence.

(e) Defined terms used in the Declaration shall have the same meanings ascribed to them herein.

## ARTICLE VIII

(a) The number of Directors of the corporation shall be fixed by the Bylaws of the corporation but shall not be less than three (3). The Directors of the corporation shall be appointed by the Developer until after the transfer of control to the Owners, as provided in the Declaration. After such time, the Directors shall be elected by the members at the annual meeting of members as provided in the Bylaws of the corporation to serve in accordance with the term of office established in such Bylaws.

(b) Directors may take any action which they are required or permitted to take without a meeting on written consent, setting forth the action so taken, signed by all of the Directors entitled to vote thereon.

(c) The initial Board of Directors shall be composed of the following individuals:

Richard J. Bell  
 One Brentwood Commons, Suite 220  
 750 Old Hickory Blvd.  
 Brentwood, Tennessee 37024

Dana Goodwin  
 One Brentwood Commons, Suite 220  
 750 Old Hickory Blvd.  
 Brentwood, Tennessee 37024

Davis Lamb  
 One Brentwood Commons, Suite 220  
 750 Old Hickory Blvd.  
 Brentwood, Tennessee 37024.

## ARTICLE IX

Upon the dissolution of the corporation, all assets of the corporation shall be distributed to a non-profit organization with purposes similar to those of the corporation. Such organization to be chosen by the Board of Directors of the corporation as part of the plan of dissolution of the corporation.

## ARTICLE X

No provision of this Charter shall be amended or modified unless two-thirds of the Lot Owners, as that term is defined in the Declaration, consent to such change.

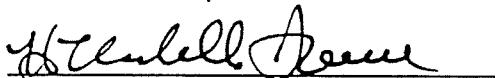
## ARTICLE XI

The complete name and address of the incorporator is as follows:

H. Marshall Greene, Esq.  
c/o Greene & Greene  
P.O. Box 198645  
323 Union Street  
Nashville, Tennessee 37219

IN WITNESS WHEREOF, the undersigned, having capacity to contract and acting as the Incorporator under the Tennessee Non-Profit Corporation Act, submits the foregoing Charter for Caldwell Estates Homeowners Association, Inc.

Dated this 31<sup>st</sup> day of December 1993.

  
H. Marshall Greene, Incorporator

**ACTION OF BOARD OF DIRECTORS OF  
CALDWELL ESTATES HOMEOWNERS ASSOCIATION, INC.  
IN LIEU OF AN ORGANIZATIONAL MEETING**

The undersigned, being all of the present Directors of Caldwell Estates Homeowners Association, Inc., a Tennessee nonprofit corporation (hereinafter referred to as the "Association"), and being all of the Directors named in the Charter of Caldwell Estates Homeowners Association, Inc., which was filed with the Secretary of State of Tennessee, do hereby individually and collectively consent in writing in accordance with Tennessee Code Annotated Section 48-52-105 of the Tennessee Non-Profit Corporation Act, to take the following action, transact the following business, and adopt the following resolutions as the action of the Directors of said Association in lieu of the organizational meeting, and hereby direct that this written consent to such action be filed with the minutes of the Corporation:

(1) RESOLVED, that the copy of the Charter attached hereto is a true copy of the Charter of this Association filed with the Secretary of State of Tennessee, that such Charter is hereby accepted and approved for the Association, and that this copy and the Certificate of Incorporation shall be placed in the Minute Book of the Association;

(2) RESOLVED, that the Bylaws attached hereto and entitled "BYLAWS OF CALDWELL ESTATES HOMEOWNERS ASSOCIATION, INC." (hereinafter sometimes referred to as "Bylaws"), be, and the same are hereby, adopted as the Bylaws of this Association for the regulation and management of its affairs, and that one copy of the Bylaws be placed in the Minute Book of the Association following the Charter, that the Secretary of the Association shall certify a copy of the Bylaws and maintain them in the principal office of the Association for the transaction of its business, open for inspection by the members at all reasonable times during office hours, and that, in certifying the Bylaws, the Secretary shall state in the Certificate that the Bylaws were adopted by the unanimous written consent of the Directors without a meeting pursuant to Section 48-52-105, Tennessee Code Annotated;

(3) RESOLVED, that the following named persons be, and they are hereby, elected to the offices set forth below opposite their respective names to serve as such officers pursuant to the Bylaws:

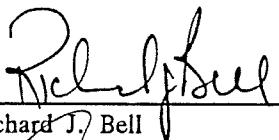
	<u>NAME</u>	<u>OFFICE</u>
1.	Richard J. Bell	President
2.	Dana Goodwin	Vice-President
3.	Davis Lamb	Secretary-Treasurer

(4) RESOLVED, that the Secretary of the Association be, and he is hereby, authorized to procure all corporate books required by law or necessary or appropriate in connection with the business of the Association, and that the President of the Association be, and he is hereby, authorized to pay all charges and expenses incident to the organization of the Association;

(5) RESOLVED, that the fiscal year of this Association for federal income tax and financial reporting purposes shall be from January 1 through December 31 of each year;

Witness the signatures of the Directors of Caldwell Estates Homeowners Association, Inc.

on the date indicated, which shall be the effective as of January 04, 1994.

  
\_\_\_\_\_  
Richard J. Bell

Date: 1-4-94

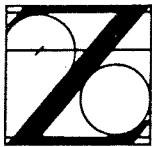
  
\_\_\_\_\_  
Dana Goodwin

Date: January 4th, 1994

  
\_\_\_\_\_  
Davis Lamb

Date: January 3<sup>rd</sup>, 1994

State of Tennessee, County of WILLIAMSON  
Received for record the 05 day of  
JANUARY 1994 at 3:30 PM. (REC# S1661)  
Recorded in official records  
Book 1154 Page 299- 333  
Notebook 52 Page 215  
State Tax \$ .00 Clerks Fee \$ .00,  
Recording \$148.00, Total \$ 148.00,  
Register of Deeds SADIE WADE  
Deputy Register BRENDA KING



Z A R I N G

---

Richard J. Bell  
*Nashville Regional President*

John H. Hodsdon  
*Operations Manager*

Todd Jones  
*Senior Production Manager*

Davis Lamb  
*Civil Engineer, Land Development*

Stephen J. Tuckerman  
*Vice President of Marketing*

## Understanding...

Your Homeowners' Association

When you purchase a home in Caldwell Estates, you will become a member of the Caldwell Estates Homeowners' Association. The Association is governed by a Board of Trustees whose duties and responsibilities are explained in the Homeowners' Association documents. The Association, through its Board, is responsible for architectural control and maintenance of amenities and common areas within Caldwell Estates. The Board contracts with outside suppliers to provide landscaping materials and services, management services, insurance, and other items which are necessary to ensure that Caldwell Estates is maintained as a high quality neighborhood.

As a Caldwell Estates Homeowners' Association member, you will be responsible for payment of an annual assessment. This assessment provides the Association with funds to pay the expenses for which it is responsible. Each year the Board of Trustees prepares a budget by obtaining bids for the goods and services required for the coming year. This budget is then divided by the number of lots within the community to arrive at the annual assessment for which each homeowner is responsible. Every year, you will be billed by the Association's management company for your share of the budgeted costs. The current annual assessment is \$420, or \$35 per month. Because the budget is based on all homes within the subdivision being sold and occupied, even with payment of annual assessments there is not sufficient revenue when construction of homes is taking place to fully fund the budget. For this reason, there is an initial assessment for working capital which is due at closing in the amount of \$200.00. Zaring Homes, Inc. pays assessments on the homes it owns and makes an additional voluntary contribution to fund any deficiency that exists during the construction period.

Although the Board of Trustees tries to satisfy the desires of all HOA members, this is sometimes an impossible task because homeowners often have different expectations of the Association. Therefore, homeowners are encouraged to play as large a role as possible in assisting the Board in running Caldwell Estates. You can participate by volunteering to serve on the Board or on committees, recommending ways to reduce the budget (such as alternative providers of goods and services), and by attending the Board Meetings and Annual Meeting of the Association.

Attached you will find copies of the Declaration, Articles, By-Laws, and Budget for Caldwell Estates Homeowners' Association. *Please be sure to review them carefully as they are as much a part of your new home purchase as the house itself.* The purposes of these restrictions are to ensure that Caldwell Estates will remain a beautiful neighborhood and that your new home will appreciate in value.

If you have any questions concerning your Homeowners' Association or how it affects you, please feel free to contact your Zaring sales representative for further details.

Zaring Homes, Inc.

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One Brentwood Commons  
Suite 220  
750 Old Hickory Blvd.  
Brentwood, Tennessee 37027  
615.371.9750  
Telecopier 615.371.1390