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RECORDED \_\_\_\_\_ FILED \_\_\_\_\_  
REQUEST OF \_\_\_\_\_

9904140089

DECLARATION

for:

BUCHAN BEACH CONDOMINIUM

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9904140089

BK 1974 PG 0253

DECLARATION  
FOR  
BUCHAN BEACH CONDOMINIUM

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9904140089

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DECLARATION SUBMITTING  
"BUCHAN BEACH CONDOMINIUM"  
TO CONDOMINIUM OWNERSHIP

THIS DECLARATION, pursuant to the provisions of the Washington Condominium Act, is made and executed this \_\_\_\_ day of \_\_\_\_\_, 1998, by ALAN G. BUCHAN, MARY E. KITTS, GEORGE C. BUCHAN, ROBIN G. BUCHAN, and IAN D. BUCHAN, all dealing in their separate property and collectively hereinafter referred to as "Declarant".

Declarant proposes to create a condominium to be known as the "Buchan Beach Condominium", which will be located in Skagit County, Washington. The purpose of this Declaration is to submit the property hereinafter described, which is owned in undivided interests by each of the persons constituting Declarant, to condominium form of ownership and use in the manner provided by the Washington Condominium Act.

Declarant acknowledges that the improvements located within the individual units of the condominium are of unequal value and that the utilities, septic systems, and drainfields for some units are not of the quality as that of some of the other units and therefore it is the express intention of the Declarant that all units in the future will have comparable utilities, septic tank systems and drainfields and that all costs connected with any improvement, maintenance, repair and/or replacement of the same shall be divided equally between all units, whether or not every unit is benefited by the same.

NOW THEREFORE, Declarant does hereby declare and provide as follows:

ARTICLE 1

DEFINITIONS

When used in this declaration the following terms shall have the following meanings:

1.1 "Association" means the association of Unit Owners established pursuant to Article 13 below.

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

1.3 "Bylaws" means the Bylaws of the Association of Unit Owners of Buchan Beach Condominium adopted pursuant to Section 14.4 below as the same may be amended from time to time.

1.4 "Condominium" means all of that property submitted to the condominium form of ownership by this Declaration.

1.5 "Declarant" means the individuals named above collectively.

1.6 "Eligible Mortgage Insurer or Guarantor" means an insurer or governmental guarantor of a first mortgage on a Unit who has requested notice of certain matters from the Association in accordance with Section 13.1 below.

1.7 "Eligible Mortgage Holder" means a holder of a first Mortgage on a Unit who has requested notice of certain matters from the Association in accordance with Section 13.1 below.

1.8 "Mortgage" and "Mortgagee" mean, respectively, a recorded mortgage, deed of trust, or contract of sale which creates a lien against a Unit, and the holder, beneficiary or vendor of such a mortgage, deed of trust or contract of sale.

1.9 "Owner" means the Declarant or other person, or persons, who own a Unit, but does not include a person who has an interest in a Unit solely as security for an obligation. "Owner" means the vendee, not the vendor, of a Unit under a real estate contract.

1.10 "Survey and Map and Plans" means the survey map and plans of Buchan Beach Condominium, recorded simultaneously with the recording of this Declaration, bearing recording number **9904140088** and in Volume 11 of Plats, pages 59-61.

1.11 "Unit Number" means a symbol, number or address that identifies only one Unit.

1.13 Incorporation by Reference. Except as otherwise provided in this Declaration, each of the terms defined in RCW 64.34.020, a part of the Washington Condominium Act, shall have the meanings set forth in such section.

## ARTICLE 2

### SUBMISSION OF PROPERTY TO CONDOMINIUM STATUTE

The property submitted to the Washington Condominium Act by this Declaration is held by Declarant and conveyed by Declarant in fee simple estate. The land submitted is located in Skagit County, Washington, and is more particularly described in the attached Exhibit A. The property submitted includes the land so described, all buildings, improvements and structures, all easements, and rights and appurtenances located on, belonging to or used in connection with such land.

### ARTICLE 3

#### NAME OF CONDOMINIUM

The name by which the Condominium shall be known is "Buchan Beach Condominium."

### ARTICLE 4

#### Units

##### 4.1 Number and Designation of Units.

The condominium shall consist of five units designated as Units A, B, C, D, and E.

##### 4.2 General Description, Location and Designation of Units.

The units in the condominium shall consist of parcels of land which are an envelope of space, the perimeter boundaries of which, and the dimensions and location, are shown in the Survey Map and Plans, which are made a part of this Declaration as if fully set forth herein. The buildings or improvements now, or hereafter constructed within the unit boundaries, shall be considered real property and a part of the unit. The approximate area of each Unit is 3,200 square feet. Declarant or the owners of the individual units shall have the right, subject to the provisions of Article 10.3 below, to alter, replace and/or improve existing buildings and structures located within the unit.

4.3 Boundaries of Units. The horizontal and vertical boundaries of the units are the fixed lines delineated on the face of the Survey Map and Plans. All space within the boundaries of the Unit, whether occupied by earth, buildings, structures, or air is part of the Unit.

4.4 Address and Access. The street address of the condominium shall be 11330 Marine Drive, Anacortes, Washington 98221-9718. Each unit has direct access to a common element driveway which has access to Marine Drive, a public highway.

### ARTICLE 5

#### COMMON ELEMENTS

5.1 Description. The common elements consist of everything except the Units.

5.2 Use. Except for those common elements designated as limited common elements in Article 6 below, each owner shall have the right to use the common elements in common with all other

owners. This right extends to each owner and their agents, servants, tenants, family members, invitees and licensees. The right to use the common elements shall be governed by the provisions of the Condominium Act and this Declaration.

#### ARTICLE 6

##### LIMITED COMMON ELEMENTS

The limited common areas and facilities are reserved for the exclusive use of the unit or units to which they are adjacent or assigned as is more particularly shown on the survey map and plans being filed coincident herewith. Said limited common areas and facilities consist of:

6.1 A portion of each of the porches adjacent to Units A and D extend beyond the boundaries of those units as disclosed on the Survey Map and Plans. That portion of the porch that is adjacent to Unit A shall be for the exclusive use of Unit A and that portion of the porch that is adjacent to Unit D shall be for the exclusive use of Unit D.

6.2 There are 25 parking spaces located in the common elements and none of them are being assigned to individual units at this time. Declarant or the Association reserves the right to assign limited common parking spaces to the individual units at a later time.

#### ARTICLE 7

##### ALLOCATION OF UNDIVIDED INTERESTS IN COMMON ELEMENTS

Each Unit will be entitled to a 20 percent undivided ownership interest in the common elements. This ratio has been determined by treating each of the Units as having the same (equal) value.

#### ARTICLE 8

##### COMMON PROFITS AND EXPENSES; VOTING

8.1 Allocation of Common Profits and Expenses. The common profits and common expenses of the Condominium shall be allocated 20 percent to the Owner of each Unit which is based upon a ratio determined in the same manner as provided in Article 7 above. Except upon termination of the Condominium or as otherwise provided in the Bylaws with respect to damage, destruction, or condemnation, any such common profits shall be used solely for the purpose of maintaining, repairing and replacing the common elements or for other expenses or reserves of the Association.

**8.2 Special Limited Common Expenses.**

8.2.1 The owners of Units A and D shall be responsible for all of the expenses connected with the maintenance, repair and/or replacement of the porches referred to in Article 6.2 above.

8.3 Allocation of Voting Rights. Each Unit Owner shall be entitled to one vote in the affairs of the Association. The method of voting shall be as specified in the Bylaws.

**ARTICLE 9**

**SPECIAL DECLARANT RIGHTS**

Declarant shall have no special declarant rights.

**ARTICLE 10**

**USE OF PROPERTY**

10.1 Each Unit is to be used for residential purposes. No Unit may be used as a time share or as a rental.

10.2 The height of any structure, whether existing at the present time, or added in the future, will not be higher than allowable under the applicable zoning, building code, or other real property law, ordinance or regulation otherwise imposed by the applicable governmental authority. It is the intent of Declarant that unit owners shall be entitled to construct buildings and/or improvements up to the boundary of their respective units.

10.3 The plans for any alteration of existing buildings and structures, or the erection of new buildings, structures or fences, shall be submitted to, and approved by the Board of Directors prior to the commencement of any work. The consent of the Board of Directors shall not be unreasonably withheld.

10.4 No noxious or offensive activities shall be carried on in any unit or common element, nor shall anything be done therein that may be, or become an annoyance or nuisance to other owners.

10.5 No animals, which term includes living creatures of any kind, shall be raised, bred or kept in any Unit or on the common elements or limited common elements for commercial purposes. Pets shall be permissible but shall be subject to such reasonable rules and regulations as are established by the Board of Directors.

## ARTICLE 11

### MAINTENANCE OF COMMON ELEMENTS

As provided above, the owners of the Units which have limited common elements appurtenant to them shall be responsible for the maintenance, repair and replacement of limited common elements. All other necessary work to maintain, repair or replace the common elements shall be the responsibility of the Board of Directors of the Association and shall be carried out as provided in the Bylaws.

## ARTICLE 12

### EASEMENTS

12.1 In General. Each Unit has an easement in and through each other Unit and the common elements for utilities, drain lines, drainfields, septic systems, and for reasonable access thereto, as required to effectuate and continue proper operation of the Condominium and the usage of the Units by the Owners. It is acknowledged that said easement rights shall not interfere with or hinder the individual unit owners from maximizing the development of their unit and that all of the foregoing services may be located as required in the common area even though said services may benefit one or more of the units, but not all of the units. The specific mention or reservation of any easement in this Declaration does not limit or negate the general easement for common elements reserved by law.

12.2 Granting of Easements by Association. The Association, upon prior approval of 80 percent of the voting power of the Unit Owners, may execute, acknowledge, deliver, and record on behalf of the Unit Owners, easements, rights-of-way, licenses, and similar interests affecting the common elements. Any such instrument shall be executed by the chairman and secretary of the Association. No such interest may be granted with regard to a limited common element unless the Owners having the right to use such limited common element join in the instrument granting the interest.

12.3 Right of Entry. The Board of Directors of the Association, managing agent, manager or any other person authorized by the Board of Directors shall have the right to enter any Unit in the case of an emergency originating in or threatening such Unit or other condominium property, whether or not the Owner is present at the time. Such persons shall also have the right to enter any Unit for the purpose of performing installations, alterations or repairs to any common element and for the purpose of inspection to verify that the Unit Owner is complying with the restrictions and requirements described in this Declaration and the Bylaws, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner.



## ARTICLE 13

### ASSOCIATION OF UNIT OWNERS

13.1 Organization. Upon the recording of this Declaration an association of Unit Owners shall be organized to serve as a means through which the Unit Owners may take action with regard to the administration, management and operation of the Condominium. The name of this Association shall be "Association of Unit Owners of Buchan Beach Condominium," and the Association shall be a Washington nonprofit corporation.

13.2 Membership; Board of Directors. Each Unit Owner shall be a member of the Association. The affairs of the Association shall be governed by a Board of Directors comprised of five (5) directors. In the event that more than one person constitutes the "Owner" of a Unit, they shall designate one person to serve as a director to cast the vote allocated to that unit. In the event that a dispute arises as to the identity of the person entitled to vote on behalf of the unit, the Owner agrees to submit the resolution of that dispute to binding arbitration by the Seattle Office of the American Arbitration Association.

13.3 Powers and Duties. The Association shall have such powers and duties as may be granted to it by the Washington Condominium Act, including each of the powers set forth in RCW 64.34.304, together with such additional powers and duties afforded it by this Declaration or the Bylaws.

13.4 Adoption of Bylaws, Declarant Control of Association. Upon the execution and the recording of this Declaration, Declarant shall adopt Bylaws for the Association. The initial Board of Directors shall be comprised of the five (5) persons collectively comprising Declarant.

13.5 Right to Cure Defaults. In the event that any third party obtains a security interest in a Unit of the Condominium, the security agreement shall contain a provision that the Association shall have the right to cure any defaults prior to the third parties ability to repossess and/or foreclose under any applicable Washington Law.

## ARTICLE 14

### AMENDMENT

14.1 How Proposed. Amendments to the Declaration shall be proposed by either a majority of the Board of Directors or by Unit Owners holding Forty percent (40%) or more of the voting rights. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for consent to the amendment.

14.2 Approval Required. Except as may otherwise be provided in this Declaration or by the Washington Condominium Act, this Declaration may be amended if such amendment is approved by Unit Owners holding eighty percent (80%) of the voting rights of the Condominium. No amendment may change the size, location, allocation of undivided interest in the common elements, method of determining liability for common expenses, right to common profits, or voting rights of any Unit unless such amendment has been approved by the Owners of the affected Unit.

14.3 Recordation. The amendment shall be effective upon recordation in the Records of Skagit County, Washington, certified to by the chairman and secretary of the Association as being adopted in accordance with this Declaration and the provisions of the Washington Condominium Act.

#### ARTICLE 15

##### FIRST RIGHT OF REFUSAL

By their signatures below, the individuals collectively comprising Declarant grant unto the "Association of Unit Owners of Buchan Beach Condominium" and unto one another (and any future owner of a Unit) a "first right of refusal" to purchase any unit that may be offered for sale upon the following terms and conditions:

15.1 In the event that a Unit Owner receives a written bona fide offer of purchase from a third party (the purchase price contained therein shall hereafter be referred to as the "initial price"), then in that event the Association shall have the first right to purchase the Unit for the same price and upon the same terms and conditions as are contained in said offer. The exercising of this right shall require the consent of at least three (3) of the four (4) non-selling owners of the Units. The written notice of the intent to exercise said right shall be delivered to the selling Owner within thirty (30) days of the receipt of a copy of the offer of purchase. In the event that the Association declines to purchase the Unit, notice shall be given to all of the non-selling Owners of their right to purchase the Unit requesting their offer to purchase within thirty (30) days from the date of said notice. In the event that more than one offer to purchase is received for the initial price, the Association shall exercise its right to purchase, coupled with the right to assign said right to a successful bidder as hereinafter established.

15.2 Upon the receipt of more than one offer to purchase for the initial price, the Association shall request the submission of offers in excess of the initial price until the highest bid is received under bidding rules established by the Association. The Association will then assign its right to purchase to the highest bidder; provided however, the selling Owner, upon closing, shall in that event distribute to each of the non-selling Owners an

amount equal to one-fifth (1/5) of the difference between the initial price and the total net sale proceeds resulting from the sale of the Unit.

15.3 The above notwithstanding, the Owners of each Unit may convey to members of their immediate families their interest in the Unit without following the above procedures. The term immediate families includes the spouse of an owner, and the natural, adopted, stepchildren, grandchildren, and great-grandchildren of an owner.

#### ARTICLE 16

##### SEVERABILITY

Each provision of this Declaration and the Bylaws shall be deemed independent and severable, and the validity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision of this Declaration or the Bylaws.

IN WITNESS WHEREOF, Declarant executes this Declaration on the dates set forth below:

DATED: 3-6-99

Alan G. Buchan  
ALAN G. BUCHAN

DATED: 3-6-99

Mary E. Kitts  
MARY E. KITTs

DATED: 3-6-99

George C. Buchan  
GEORGE C. BUCHAN

DATED: 3-6-99

Robin G. Buchan  
ROBIN G. BUCHAN

DATED: 3-6-99

Ian D. Buchan  
IAN D. BUCHAN

STATE OF WASHINGTON )  
COUNTY OF King ) ss  
~~SKAGIT~~

I certify that I know or have satisfactory evidence that ALAN G. BUCHAN signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.



Linda M. Tardif  
Notary Public in and for the State of  
Washington, residing at Renton.  
My appointment expires: 5-28-01.

STATE OF WASHINGTON )  
COUNTY OF King ) ss  
~~SKAGIT~~

I certify that I know or have satisfactory evidence that MARY E. KITTS signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: 3/6/99



STATE OF Washington )  
COUNTY OF King ) ss

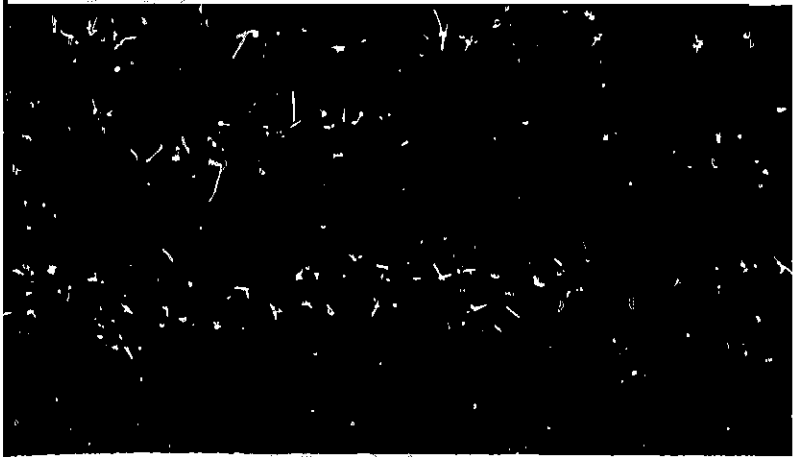
Linda M. Tardif  
Notary Public in and for the State of  
Washington, residing at Renton.  
My appointment expires: 5-28-01.

I certify that I know or have satisfactory evidence that GEORGE C. BUCHAN signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: 3/6/99



Linda M. Tardif  
Notary Public in and for the State of  
Washington, residing at Renton.  
My appointment expires: 5-28-01.



STATE OF Washington )  
COUNTY OF King ) SS

I certify that I know or have satisfactory evidence that ROBIN G. BUCHAN signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: 3/6/99



Linda M. Tardif  
Notary Public in and for the State of  
Washington, residing at  
Renton  
My appointment expires: 5-28-01.

STATE OF Washington )  
COUNTY OF King ) SS

I certify that I know or have satisfactory evidence that IAN D. BUCHAN signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: 3/6/99



Linda M. Tardif  
Notary Public in and for the State of  
Washington, residing at  
Renton  
5-28-01

**EXHIBIT A**

**PARCEL A:**

Lots 48 through 51 and the Northerly 50 feet of Lot 52, ANACO BEACH, according to the plat thereof recorded in volume 5 of Plats, page 4, records of Skagit County, Washington.

**PARCEL B:**

That portion of Tract 2, Section 34, Township 35 North, Range 1 East of the Willamette Meridian, Plate 2, Anacortes Tide Lands, lying between the Northerly line of Tract 48 and the Southerly line of the North 50 feet of Tract 52 of the Plat of ANACO BEACH produced Westerly, said Tract 2 being as shown on the official map of said tidelands on file in the office of the Commissioner of Public Lands at Olympia, Washington.

Situated in Skagit County, Washington.