

purpose, and the Board shall cause the damaged or destroyed Common Areas to be restored as closely as practical to its former condition prior to the destruction or damage. In the event of a determination, as provided above, not to replace or restore the Improvements on the Common Areas, the Common Areas shall be cleared and landscaped for community park use and the costs thereof shall be paid for with the insurance proceeds, and any deficiency may be raised by Reconstruction Assessments in an amount determined by the Board.

9.4 Excess Insurance Proceeds. In the event any excess insurance proceeds remain, after any reconstruction by the Association pursuant to this Article, the Board, in its sole discretion, shall either (i) replenish any reserves from which reconstruction funds were obtained, or (ii) distribute such sums pro-rata equally to the Owners subject to the prior rights of Mortgagees whose interest may be protected by insurance policies carried by the Association. In the absence of such prior rights, the rights of an Owner and the Mortgagee of his Lot as to such pro-rata distribution shall be governed by the provisions of the Mortgage encumbering such Lot.

9.5 Use of Reconstruction Assessments. All amounts collected as Reconstruction Assessments shall only be used for the purposes set forth in this Article and shall be deposited by the Board in a separate bank account to be held in trust for such purposes. Such funds shall not be commingled with any other funds of the Association and shall be deemed a contribution to the capital account of the Association by the Members. Any excess amounts which are so collected shall be treated in the same manner as set forth in Section 9.4 above.

ARTICLE X **EMINENT DOMAIN**

10.1 Definition of Taking. The term "taking" as used in this Article shall mean condemnation by eminent domain or sale under threat of condemnation of all or any portion of the Common Areas.

10.2 Representation by Board in Condemnation Proceedings. In the event of a threatened taking of all or any portion of the Common Areas, the Members hereby appoint the Board and such persons as the Board may delegate to represent all of the Members in connection with the taking. The Board shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemner in lieu of engaging in a condemnation action.

10.3 Inverse Condemnation. The Board is authorized to bring an action in inverse condemnation. In such event, the provisions of this Article shall apply with equal force.

10.4 Award for Common Areas. Any awards received on account of the taking of Common Areas shall be paid to the Association. The Board may in its sole discretion retain any award in the general funds of the Association or distribute pro-rata all or a portion thereof to the Members. The rights of an Owner and the Mortgagee of his Lot as to any pro-rata distribution shall be governed by the provisions of the Mortgage encumbering such Lot.