

## CHAPTER 258

### SUB-DIVISIONS (LOCAL IMPROVEMENT ASSOCIATIONS)

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**CHAPTER 258****SUB-DIVISIONS (LOCAL IMPROVEMENT ASSOCIATIONS)**

**An Act to make provision for the formation of Local Improvement Associations in order to establish, maintain and operate improvement associations for the benefit of lot owners in sub-divisions.** *32 of 1965*

**1.** This Act may be cited as the Sub-divisions (Local Improvement Associations) Act. *Short title.*

**2.** In this Act, unless the context otherwise requires — *Interpretation.*

“Association” means a Local Improvement Association established under this Act;

“developer” means the person for the time being responsible for the development of a sub-division;

“lot owner” means the owner of a lot within a sub-division;

“Minister” means the Minister responsible for Private Roads and Sub-divisions; *E.L.A.O., 1974.*

“objector” means a person who within the prescribed time has submitted to the Minister objections in writing to a petition for the establishment of an Association;

“owner” means the owner of land in fee simple where such land is unincumbered or, where such land is the subject of a charge or mortgage, the owner of the equity of redemption in such land; where such title is vested in a corporation or in two or more persons jointly or in common, the owner for the purposes of this Act and any certificate of incorporation or bye-laws of an Association shall be an individual who shall be duly authorised to act as owner by such corporation or by the joint owners or owners in common as the case may be;

“private road” means any road which is not maintained at public expense;

“road” means any alley, lane, street, path or thoroughfare and includes any sidewalk where such exists;

“sub-division” in relation to any land means a plot of land divided into numbered lots, in the division of which plot, provisions is made for the reservation of sites for residential premises either with or without ancillary buildings and amenities and for the construction of private access roads.

Formation of an Association.

3. (1) Where lot owners representing not less than sixty per centum of the total number of lots in a subdivision decide to form themselves into an Association for the purposes of this Act, they may submit to the Minister in the prescribed manner a petition to be incorporated as a Local Improvement Association.

(2) The purposes of a Local Improvement Association shall be to perform in the interests of the lot owners within a sub-division such of the following functions as it may be empowered to perform, namely —

- (a) the maintenance in a state of good repair of all private roads;
- (b) the operation and maintenance of any storm water drains not operated and maintained at public expense;
- (c) the provision and maintenance of such street lighting as in the opinion of the Association is sufficient for the needs of the area;
- (d) the maintenance in a clean and orderly state of any parks, recreation grounds, open spaces or verges which are not maintained at public expense;
- (e) the collection, disposal or destruction of garbage, ashes or rubbish;
- (f) the establishment and control of an organisation of watchmen;
- (g) in any sub-division where inland waterways exist, the maintenance of such waterways in a sanitary and uninterrupted condition and the repair and maintenance of the sea walls belonging thereto;
- (h) any other function which in the circumstance of the case it is appropriate for the Association to perform;

- (i) the recovery from lot owners of the costs incurred by the Association in the carrying out of such functions and in the administration of the Association.

(3) The constitution of any such Association shall be contained in a certificate of incorporation issued by the Minister under his hand and seal setting out the general purpose and powers of the Association. Any such certificate of incorporation shall be substantially in the form set out in the First Schedule to this Act or with such variations as circumstances may require. Further provisions for the government of the Association shall be contained in bye-laws which shall be made and amended by the Association in such manner as may be authorised by the certificate of incorporation.

First Schedule.

(4) Any Association may adopt as its bye-laws all or any of the bye-laws contained in the Second Schedule to this Act and in so far as the bye-laws of an Association do not exclude or modify the bye-laws contained in the Second Schedule, those bye-laws shall, so far as applicable, be the bye-laws of the Association in the same manner and to the same extent as if they were contained in the bye-laws of the Association.

Second Schedule.

4. (1) A petition in writing for the establishment of an Association in any sub-division may be presented to the Minister and shall be signed by owners representing not less than sixty per centum of the total number of lots in the sub-division who desire to form an Association for the purposes of this Act.

Petition for establishment of an Association.

(2) Each signatory to such petition shall state his full name and postal address and particulars of the lot or lots owned by him. Where any lot is owned by a corporation or by two or more persons jointly or in common it shall be sufficient if the petition is signed by an individual duly authorised to do so by the corporation or the joint owners or owners in common as the case may be.

- (3) Any such petition shall be accompanied by —
  - (a) a survey map showing the precise boundaries of the sub-division in respect of which the petition is submitted;

- (b) a list of the names and addresses of all lot owners within the sub-division who are not signatories to the petition with particulars of the lot or lots owned by them;
- (c) the proposed certificate of incorporation and bye-laws of the Association; and
- (d) a certificate signed by the developer stating whether or not he consents to the petition.

(4) Upon the presentation of any such petition to the Minister, it shall be the duty of the petitioners to cause a copy of the petition (excluding the signatures thereto) to be:

- (a) sent to every lot owner in the sub-division;
- (b) published in the *Gazette*,

with a statement to the effect that any person who wishes to object to the grant of the prayer of the petitioners shall present his objections in writing to the Minister within twenty-one days of the date of the publication of the petition in the *Gazette*.

Consideration of  
petition.

5. (1) Upon the receipt of a petition and any objections thereto submitted in pursuance of section 4 of this Act, the Minister may make such inquiries regarding the matter as he may see fit and in particular shall require the signatories to the petition to satisfy him that they are duly authorised and qualified to present it. As soon as may be after the expiration of the time prescribed for the submission of objections to the petition, the Minister shall give his decision upon it.

(2) The Minister may reject a petition on any of the following grounds —

- (a) that it would not be in the public interest to grant it;
- (b) that it would not be in the best interests of the lot owners generally in the sub-division to grant it;
- (c) that the developer has failed to carry out any obligation imposed upon him under the Private Roads and Sub-divisions Act or any Act amending or replacing that Act;
- (d) that the developer has withheld his consent to the petition for reasons which appear to the Minister to be good and sufficient; or
- (e) that the proposals of the petitioners are in the Minister's opinion unsatisfactory.

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(3) In any other case the Minister shall either grant the petition, or grant it subject to such modifications as he deems necessary or desirable.

(4) The Minister shall notify his decision on the petition to the petitioners and to any objectors in such manner as in the circumstances of the case appears most convenient.

6. (1) Where the Minister rejects a petition or grants it with or without modifications any objector or the petitioners, as the case may be, shall be entitled within such time as may be prescribed to appeal against the Minister's decision to the Supreme Court, whose decision shall be final.

Appeal to the  
Supreme Court.

(2) Any appeal to the Supreme Court under this section shall be made and disposed of in such manner as may be prescribed by Rules of Court made under section 76 of the Supreme Court Act.

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7. (1) Where the Minister decides to grant a petition under this Act, with or without modification, he shall establish the Local Improvement Association for the sub-division to which the petition refers with such style and title, constitution and functions as are set out in the certificate of incorporation issued under his hand and seal.

Grant of the  
petition.

(2) Such Association shall thereupon be a body corporate under its proper style and title and shall have perpetual succession and a common seal with power to hold land, to sue and be sued in its corporate name and to exercise as a body corporate such functions as may be assigned to it.

(3) The first bye-laws of such Association shall be approved by the Minister.

(4) Upon the incorporation of an Association, it shall be the duty of the Association to lodge for record in the Registry of Records of The Bahamas the certificate of incorporation and the bye-laws of the Association and thereafter the Minister shall cause public notice of the incorporation of the Association and the location of its registered office to be inserted in the *Gazette* at the expense of the Association.

(5) Upon lodging the certificate of incorporation and the bye-laws of the Association at the Registry of Records, the Association shall pay a fee of forty dollars.

5 of 1987, s. 2.

Effect of  
incorporation of  
an Association.

**8.** (1) Upon the date of the incorporation of an Association, every signatory to the petition therefor who is at that date a lot owner shall thereby be a member of the Association and every other lot owner in the subdivision affected shall thereupon be entitled as of right to become a member of the Association.

(2) As from the date of incorporation of such Association, every member thereof from time to time shall be bound by the rules and regulations imposed by the certificate of incorporation and the bye-laws of the Association for the time being in force.

(3) Where immediately prior to the incorporation of an Association there exist any valid and subsisting agreements or covenants binding upon lot owners and the developer relating to the carrying out of or the payment for any functions entrusted to the Association, such agreements or covenants shall be in suspense and unenforceable for any period during which the Association is empowered to carry out such functions and to require payment therefor, but in the event of the Association being wound up or ceasing to be so empowered any such agreements or covenants shall revive and be in full force and effect.

Purpose and duty  
of the  
Association.

**9.** It shall be the duty of the Association to use its best endeavours to carry out the functions it is empowered to perform in such a manner as will —

- (a) promote the best interests of the greatest number of lot owners;
- (b) be prompt and efficient;
- (c) keep at a reasonable level the costs incurred by the Association in performing its functions (including the costs of administration);
- (d) ensure an equitable apportionment of such; costs among all the lots in the sub-division.

Board of  
Governors.

**10.** (1) The bye-laws of an Association shall provide that the business and affairs of the Association shall be managed by a Board of Governors and such board shall in the exercise of its responsibilities have the powers and authority as nearly as may be of a board of directors of a company limited by shares registered under the Companies

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Act, subject always to any limitations contained in this Act or in the certificate of incorporation or the bye-laws of the Association.

(2) The bye-laws of the Association shall provide for the election of the board of governors from time to time by the members of the Association.

**11.** (1) Any person who at any time becomes the owner of a lot within a sub-division for which an Association is incorporated shall be entitled as of right at any time to become a member of that Association and if he so wishes to retain his membership for so long as he remains the owner of any lot in the sub-division.

Right to membership.

(2) Where a person who is a member of an Association incorporated in respect of a sub-division ceases to be the owner of any lot in that sub-division he shall forthwith cease to be a member of that Association without prejudice however to the right of the Association to recover from him any amount which may have become due by him to the Association while he was still a member.

**12.** It shall be the duty of every lot owner in a subdivision for which an Association is incorporated to register an address for service with the Association and to notify the Association from time to time of any change in such address.

All lot owners to register an address for service with the Association.

**13.** It shall be the duty of every lot owner in a subdivision for which an Association is incorporated to notify the Association in writing forthwith whenever he ceases to be the owner of any lot within the sub-division and at the same time to state the full name and address of the person who has become the owner of such lot.

Change of ownership of lots.

**14.** (1) Whenever the costs (including the costs of administration) incurred by an Association in performing its functions are apportioned among the lots within the subdivision, the Association shall cause a notice to be sent to each person registered by the Association as a lot owner stating the amount apportioned to his lot or lots and the date upon which such amount is due and payable.

Amounts due by lot owners.

(2) Any such amount due shall be a charge upon the lot in the sub-division to which it is apportioned and, in addition to any other remedy which the Association may have, shall be recoverable *mutatis mutandis* as money secured by equitable mortgage of land.

(3) Any amount apportioned to a lot by an Association which has not been paid within three months of the date on which it became due under the bye-laws of the Association shall, without prejudice to any other remedy, be recoverable by the Association summarily as a civil debt from the person registered by the Association as the lot owner and a certified copy of any such judgment obtained in a magistrate's court under this section by the Association shall be lodged with the Registry of Records of The Bahamas who shall register the same upon the payment of a fee of four dollars.

*5 of 1987, s. 2.*

Certificate of  
unpaid demands.  
*5 of 1987, Sch.*

**15.** (1) Upon demand and the payment of a fee of one dollar, the treasurer or other authorised officer of an Association shall furnish to any owner or mortgagee or other person interested in any lot in the sub-division, a certificate showing any unpaid amounts apportioned against such lot and such certificate shall be conclusive evidence of the facts contained therein.

(2) The treasurer or other authorised officer of an Association who fails to give a certificate in pursuance of subsection (1) of this section or gives a certificate which is incorrect in a material detail shall be guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars.

*5 of 1987, s. 2.*

Accounts.

**16.** (1) As soon as may be after the conclusion of its financial year an Association shall cause to be prepared an account of the expenditure incurred and of the revenue received in such year in respect of the exercise of its functions under this Act and shall submit the same to be audited by an auditor appointed by the Association with the prior approval of the Minister. Every lot owner shall be entitled to receive a copy of such audited account.

(2) The Minister may, if he sees fit, by notice in writing require the treasurer or other authorised officer of an Association to submit for his information a copy of its audited accounts in respect of any financial year.

(3) The treasurer or other authorised officer of an Association who fails to submit to the Minister a copy of the audited accounts of the Association in pursuance of subsection (2) of this section, shall be guilty of an offence and on summary conviction shall be liable to a fine not exceeding two hundred dollars.

*5 of 1987, s. 2.*

**17.** A certificate of incorporation of any Association may be amended at any time after the incorporation of the Association subject to the approval of the Minister provided that the Association complies with such method of formulating any such amendment as may be prescribed by the Minister in the certificate of incorporation.

Amendment of certificate of incorporation.

**18.** (1) An Association established under this Act may if occasion arises be wound up voluntarily or by the Supreme Court as nearly as may be as if it were a company registered under the Companies Act as a company limited by guarantee.

Winding-up of Association.

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(2) In the event of an Association being wound up, every person who is a lot owner at the date of the winding-up or who was lot owner within one year prior to such date shall be liable to contribute to the assets of the Association for the payment of the debts and liabilities of the Association contracted before he ceased to be a lot owner, and the costs, charges and expenses of the winding-up and for the adjustment of the rights of the contributors among themselves such amount as may be required not exceeding forty dollars.

*5 of 1987, s. 2.*

**19.** (1) Notwithstanding the other provisions of this Act where the Minister for Works is of the opinion that in a sub-division an Association which has been incorporated under this Act has neglected or failed satisfactorily to perform its functions he may serve a notice on such Association of his intention to make an application to the Supreme Court for an order under this section.

Where an association fails to perform its functions.

(2) Where on the application of the Minister for Works under this section the Supreme Court is satisfied that the Association in respect of which the application is made has neglected or has failed satisfactorily to perform its functions, the Court shall make an order authorising the Minister for Works to perform the functions of that Association within the sub-division for which it is incorporated and may give such further directions and make such further orders for the purpose of giving effect thereto as to the Court shall seem fit.

(3) Where the Court makes an order under subsection (2) of this section the Court may also if it sees fit make an order for the compulsory winding-up of the Association.

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(4) Rules of Court for regulating proceedings under this section may be made under section 76 of the Supreme Court Act.

Service of notices.

**20.** (1) Subject to the other provisions of this section, whenever under this Act or the bye-laws of an Association notice is required to be given to any lot owner or member, such notice shall be sent by registered post in a stamped wrapper addressed to such lot owner or member at his address registered in the books of the Association.

(2) When any such notice is sent from The Bahamas to an address in another country, it shall be sent by prepaid registered air mail.

(3) Any notice sent by post in the manner prescribed by this section shall be deemed to be served on the person to whom it is addressed on the seventh day after the day in which the wrapper containing the same is posted.

(4) Any notice required to be given under this Act or any bye-laws of an Association may be waived by the person entitled thereto.

Rules.  
5 of 1987, s. 2.

**21.** The Minister may make rules for carrying into effect the objects of this Act and may prescribe a penalty not exceeding a fine of four hundred dollars for the breach or non-compliance of any such rule.

## FIRST SCHEDULE

### CERTIFICATE OF INCORPORATION

1. The name of the Association shall be “The Local Improvement Association of the Sub-division of .....””

2. The Registered Office of the Association shall be situated at .....

3. The general nature and object of the Association shall be to establish, maintain and operate an improvement Association for the benefit of all the lot owners in the sub-division and in particular the Association shall have the following functions —

(Here set out the functions approved by the Minister).

4. Every lot owner within the sub-division shall be eligible to be a member of the Association and no other person shall be eligible for membership thereof.

5. Every member of the Association shall be entitled to one vote for each lot owned individually, jointly or in common with others, or by the corporation represented by the member.

6. The Association is a non-profit-making body and the liability of the members is limited.

7. The highest amount of indebtedness or liability to which the Association may at any time subject itself is \$.....

8. Subject to the limitation prescribed by paragraph 7 hereof, the Association may borrow money for the purpose of performing its functions.

9. In the event of the Association being wound up, every person who is a lot owner at the date of the winding up or who was a lot owner within one year prior to such date shall be liable to contribute to the assets of the Association for the payment of the debts and liabilities of the Association contracted before he ceased to be a member, and the costs, charges and expenses of winding-up and for the adjustment of the rights of the contributories amongst themselves such amount as may be required not exceeding forty dollars.

10. The common seal of the Association shall have the following design that is to say —

11. The boundaries of the sub-division in respect of which the Association is incorporated are —

which are more particularly delineated on the plan annexed and marked “A”.

12. The first bye-laws of the Association annexed hereto and marked “B” are hereby approved by the Minister and may be amended or repealed and re-enacted in whole or in part from time to time by the Association in the manner provided in the bye-laws.

13. Subject to the approval of the Minister this certificate of incorporation may be amended in such manner as may be set out in a resolution duly passed by a three-quarters majority vote at any annual meeting or at any special meeting of the Association called for such purpose provided always that the text of any such resolution is contained in the notice convening the meeting.

IN WITNESS WHEREOF I, the  
said Minister for .....  
hath hereunto set my hand and seal  
this ..... day of .....,  
A.D., 19.....

## SECOND SCHEDULE

### BYE-LAWS

#### *Membership*

1. Any person who is at any time a lot owner (as defined by this Act) within the sub-division, shall be entitled as of right to become a member of the Association.

2. Every member of the Association shall as occasion may arise supply to the Secretary the lot numbers of the lots owned by him and an address to which all notices and communications may be sent to him. The name and address of every member for the time being shall be entered in a register to be maintained by the Secretary.

3. Any member who disposes of his interest as owner of a lot shall forthwith inform the Secretary in writing stating the full name and address of the person to whose ownership the lot has passed and the Secretary shall amend the register accordingly.

4. Where a member is no longer the owner of any lot he shall cease forthwith to be a member of the Association and his name shall be struck off the register without prejudice, however, to the right of the Association to recover from such person any amounts due and owing by him to the Association.

5. In the case of a death of a member who is an individual owner or an owner in common of a lot or lots, his personal representatives shall be entered in the register of members and no other person shall be recognised by the Association as being entitled to exercise any powers of membership in relation to such lot or lots. Where a deceased member was in respect of any lot a joint owner, a survivor shall be eligible to become a member and be registered as such.

6. Any member shall be entitled on demand to the Secretary to receive free of payment a card or certificate of membership of the Association and if such card or certificate be lost or destroyed a duplicate may be supplied on the payment of a fee to be fixed by the Board of Governors.

7. In all matters which fall to be decided by the votes of the members of the Association, each member shall have one vote for every lot within the sub-division of which he is the lot owner and is so registered in the books of the Association.

#### *Board of Governors*

8. The Board of Governors (hereinafter referred to as “the Board”) shall comprise five members elected from time to time at an annual meeting of the Association.

9. The first Board shall comprise the following persons—  
.....  
.....

and at the first meeting of such Board one of its members shall be designated to serve for one year: two to serve for two years and two to serve for three years.

10. At each annual meeting one-third of the number of members of the Board shall be elected to serve for a term of three years. Any retiring member of the Board shall be eligible for re-election.

11. At least sixty days prior to the date of the annual meeting the Board shall appoint from the general membership of the Association a nominating committee comprising not less than three members. Such committee shall file with the Secretary at least thirty days before the date of the annual meeting, the names of at least as many members of the Association who are willing to stand as candidates for election to the Board as there are vacancies on the Board to be filled. Additional nominations supported by not less than ten members may be made in writing and similarly filed with the Secretary.

12. If there be more nominations than there are vacancies to be filled on the Board, the Secretary shall cause the names of all nominees to be printed on a ballot paper in alphabetical order and at least twenty-one days before the date of the annual meeting he shall post one such ballot paper to each member of the Association.

13. Votes may be cast by sending the completed ballot paper by post to the Secretary in a sealed envelope or by being deposited in a ballot box provided for the purpose at the registered office of the Association. Ballot papers sent by post shall be disregarded unless received by the Secretary not later than 1 p.m. on the day prior to the annual election.

14. The nominating committee shall appoint two members of the Association (not being members of the Board) to act as scrutineers who shall supervise the prescribed voting procedure, count the ballot papers, determine the validity of any ballot paper in case of doubt and certify the result of the election to the President. The result of the ballot shall be announced at the annual meeting.

15. At the first meeting of the Board after each annual meeting and whenever a vacancy occurs the Board shall elect from among its members a President and one or more Vice-Presidents as the Board shall deem fit. At a meeting of the Board at which not less than six members are present, the Board may by resolution remove the President or any Vice-President from office, provided that the text of such resolution is contained in the notice convening the meeting.

16. The Board shall meet for the transaction of business as occasion may arise but in any event shall hold at least one meeting in every year.

17. Meetings of the Board shall be summoned by the President at his discretion or on the written requisition of three members of the Board and reasonable notice of all meetings of the Board shall be given by the Secretary to every member thereof.

18. At all meetings of the Board the President, or in his absence the senior Vice-President present, or in the absence of the President and the Vice-President, a chairman chosen by the members present, shall preside.

19. A majority of the members of the Board for the time being in office shall constitute a quorum for the transaction of business and any decision of the Board shall be taken by motion passed by a majority of those present and voting.

20. The President of the Board shall be the chief executive officer of the Association and shall perform such duties as may from time to time be assigned to him by the Board.

21. The Board may elect from their number an executive committee consisting of not less than three members of the Board, which committee shall have all the powers of the Board between meetings. The President of the Association shall be a member of and shall officiate as chairman of the executive committee. The Board may appoint any other committees and may authorise any such committee to co-opt members of the Association. The President shall be an *ex officio* member of all committees.

22. Whenever a casual vacancy in the membership of the Board shall occur the remaining members of the Board shall have power by a majority vote to select a member to serve the unexpired term of the vacancy.

23. At a meeting of the Association, any member of the Board may, by resolution, be removed from office as a member of the Board, provided that the text of such resolution is contained in the notice convening the meeting.

24. After the close of the financial year the Board shall submit to the Association a report on the conduct of the affairs of the Association during the previous year, together with the audited accounts of the Association.

*Officers and Employees of the Association*

25. There shall be a secretary and a treasurer of the Association and such other officers as the Board may deem necessary. Such officers shall be appointed by the Board from time to time to perform such duties as may be prescribed by the President or the Board and they shall hold office for such period and upon such



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conditions as the Board may determine. It shall not be necessary for the officers to be members of the Association and the office of secretary and treasurer may be held by the same person.

26. The Secretary shall keep the minutes of all proceedings of the Board, all committees and all meetings of the Association in books provided for the purpose. The Secretary shall have the custody of the seal of the Association and such books and papers as the Board may direct and he shall in general perform all the duties normally assigned to the office of secretary, subject to the control and direction of the Board and the President.

27. The Treasurer shall have custody of all the receipts, disbursements, funds and securities of the Association and shall perform all the duties normally assigned to the office of treasurer, subject to the control and direction of the Board and the President. If required by the Board, the Treasurer shall give a bond for the faithful discharge of his duties in such sum as the Board may require.

28. The Board, or the Secretary with the authority of the Board, may enter into contracts or engage and discharge employees as may be deemed necessary for the carrying out of the functions of the Association.

*Meetings of the Association*

29. An annual meeting of the Association shall be held each year in the month of March on a date and at a time and place to be fixed by the Board.

30. A special meeting of the Association shall be held whenever summoned by the Board or on the written requisition of not less than ten members stating the purpose of such meeting.

31. Notice of any meeting of the Association stating the business to be transacted at the meeting shall be sent by the Secretary to every member of the Association at his registered address at least twenty-one days prior to the date fixed for such meeting.

32. At every meeting of the Association each member may cast the votes to which he is entitled in person or by proxy.

33. A quorum for any meeting of the Association shall consist of such number of members either in person, or represented by proxy who between them own a majority of the lots in the subdivision. Subject to there being a quorum as herein defined any question before a meeting of the Association shall be decided by a majority of votes given in person or by proxy.

*Finance*

34. The financial year of the Association shall commence on the first day of June and terminate on the thirty-first day of May in each year.

35. The Board shall have the right and power to subject every lot situated within the sub-division to which the Association relates to an annual maintenance charge which shall be fixed by the Board at least two months prior to the commencement of the financial year in respect of which it is payable. The amount of the annual maintenance charge in respect of each lot shall be fixed in such a manner that the total expenditure which the Association expects to incur during the forthcoming financial year in carrying out its functions (including the cost of administration) is apportioned between all the lots in the sub-division in proportion to the relative size of the individual lots, save that where the sub-division contains any waterway, the expenditure to be incurred by the Association in carrying out the functions described in paragraph (g) of section 3(2) of this Act shall be apportioned only between the lots abutting on the waterway in proportion to the relative size of each such lot. Notice of the amount of the maintenance charge payable in respect of each lot shall thereupon be served upon each lot owner.

36. Annual maintenance charges shall be due and payable on the first day of June in each year and such charges as shall not have been paid on or before the first day of September in such year shall be deemed to be in arrears and shall bear interest thereafter at the rate of eight per centum per annum.

37. The annual maintenance charge may be adjusted or reduced from year to year by the Board as the needs of the subdivision may, in the judgment of the Board, require but so that taking one year with another, the income of the Association shall not substantially exceed the costs incurred by the Board in the discharge of the functions assigned to the Association together with the costs of the administration thereof.

*5 of 1987, Sch.*

38. Upon demand and the payment of a fee of one dollar the Treasurer or Secretary shall furnish to any owner, or mortgagee, or person interested a certificate showing the unpaid maintenance charges against any lot or lots.

*Amendment and Interpretation*

39. (1) Subject to the other provisions of this paragraph, whenever in accordance with these bye-laws notice is required to be given to any member of the Association or a lot owner, such notice shall be sent by post in a prepaid wrapper addressed to such lot owner or member at his address registered in the books of the Association.

(2) When any such notice is sent by post from The Bahamas to an address in another country, it shall be sent by prepaid registered air mail.

(3) Any notice sent by post in the manner prescribed by this paragraph shall be deemed to be served on the person to whom it is addressed on the seventh day after the day on which the wrapper containing the same is posted.

40. Any notice required to be given by these bye-laws may be waived by the person entitled thereto.

41. Where at any meeting of the Board of Governors or of members of the Association there is an equality of votes upon any resolution, the person presiding shall not have a casting vote and the resolution shall be deemed to be negated.

42. These bye-laws may be amended or repealed and re-enacted in whole or in part from time to time by a resolution passed by a three-fourths majority vote at any annual or special meeting of the Association provided that the text of any such amendment is contained in the notice convening the meeting.

43. In these bye-laws, “this Act” means the Sub-divisions (Local Improvement Associations) Act. Ch. 258.