

DISCLOSURE STATEMENT
FOR
THE LODGE AT EAST BAY CONDOMINIUM

A residential condominium project,
consisting of seven (7) units;
expandable to thirteen (13) units.

DEVELOPED BY:
THE LODGE GROUP, L.L.C.
A Michigan limited liability company
3535 East Stoll Road
Lansing, Michigan 48906

THIS DISCLOSURE STATEMENT IS NOT A SUBSTITUTE FOR THE MASTER DEED (AND ITS ATTACHMENTS), THE CONDOMINIUM BUYER'S HANDBOOK, OR OTHER DOCUMENTS. ALL BUYERS SHOULD READ ALL DOCUMENTS TO FULLY ACQUAINT THEMSELVES WITH THE PROJECT, AND THEIR RIGHTS AND RESPONSIBILITIES RELATING THERETO.

WE RECOMMEND THAT YOU SEEK PROFESSIONAL ASSISTANCE FROM AN ATTORNEY OR OTHER COMPETENT ADVISER PRIOR TO THE PURCHASE OF A CONDOMINIUM UNIT.

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1. **Introduction.**

Condominium development in Michigan is governed largely by the Michigan Condominium Act, being Act 59 of the Michigan Public Acts of 1978, as amended.

This Disclosure Statement, together with copies of the legal documents required for the creation and operation of the condominium, are furnished to each purchaser pursuant to the requirement of the Michigan Condominium Act that the Developer of a condominium disclose to prospective purchasers the characteristics of the condominium units which are offered for sale. This Disclosure Statement, along with the documents contained in the Purchaser Information Booklet, are the only authorized description of **The Lodge at East Bay Condominium**. The Developer's officers, employees and agents (including but not limited to sales representatives) are not permitted to

vary the terms contained therein through any verbal or written statements. **If you feel you have been told something which contradicts the written documents, you must point this out before you close on your Unit.**

2. The Condominium Concept.

A condominium is a method of subdividing and describing real property. A condominium unit has the same legal attributes as any other form of real property under Michigan law and may be sold, mortgaged or leased, subject only to such restrictions as are contained in the condominium documents or as otherwise may be applicable to the property. Each co-owner receives a deed to the individual condominium unit purchased. Each co-owner owns, in addition to the unit purchased, an undivided interest in the condominium's common facilities, which are called "**common elements.**" Title to the common elements is included as part of, and is inseparable from, title to the individual condominium units. Each owner's proportionate share of the common elements is determined by the percentage of value assigned to the owner's unit in the Master Deed. The Master Deed, which is described in Section 4 of this Disclosure Statement, must be examined carefully to determine each co-owner's rights and obligations with respect to common elements.

All portions of the condominium not included within the units constitute the common elements. **Limited common elements** are those common elements set aside for use by less than all unit owners. **General common elements** are all common elements other than limited common elements, and can be used by all co-owners.

The proximity of the units in the condominium and each co-owner's right, in common with all other co-owners, to use the general common elements, dictates that certain restrictions and obligations be imposed on each co-owner for the mutual benefit of all co-owners. The restrictions and obligations are set forth in the Master Deed and in the Bylaws which are attached as Exhibit A to the Master Deed. All owners and unit occupants must be familiar with and abide by such restrictions and obligations.

The management and administration of the condominium is the responsibility of The Lodge at East Bay Co-Owners' Association, a Michigan nonprofit corporation of which all co-owners are members (the "Association"). The nature and duties

of the Association are set forth in the Condominium Bylaws attached as Exhibit A to the Master Deed and are summarized in Section 6 of this Disclosure Statement.

Except for the year in which a unit is first established as part of the condominium, real property taxes and assessments are levied individually against each unit in the condominium. The separate taxes and assessments cover the unit and its proportionate share of the common elements. No taxes or assessments are levied independently against the common elements.

The foregoing is necessarily generalized to some degree. Accordingly, each purchaser is urged to carefully review all of the documents contained in the Purchaser Information Booklet for the condominium as well as any other documents that have been delivered to the purchaser in connection with this development. **Any purchaser having questions pertaining to the legal aspects of the condominium is advised to consult the purchaser's own lawyer or other professional advisor.**

3. Description of the Condominium.

A. Size, Scope and Physical Characteristics of the Condominium.

The condominium has been established initially as a seven (7) unit residential condominium, located in the Village of Elk Rapids, Antrim County, Michigan. The condominium has been approved by the Village of Elk Rapids, as a special land use. The developer has reserved the right (but has no obligation) to expand the condominium by adding certain adjacent real property and constructing an additional six (6) units, provided that all governmental approvals would have to be received for the proposed expansion at that time.

The Developer will be constructing the improvements shown on the subdivision plan, which is attached as Exhibit B to the Master Deed. First, certain pre-existing structures have been demolished. Then, construction of the units and common elements will commence. Each co-owner is responsible for furnishing his or her unit.

B. Improvements Labeled "Must be Built" or "Need Not be Built".

The Condominium Act requires that proposed structures and

improvements be labeled in the Condominium Subdivision Plan as either "must be built" or "need not be built." The Condominium Plan identifies the following as "must be built": seven Units contained in one stand alone buildings; initial construction of certain drives and parking areas; walking paths; certain exterior lights; hook-ups of each unit to the Village municipal water and sewage treatment systems, together with other below ground utilities; an elevator servicing the second and third floor units in the main residential building; and garage buildings for the limited common element garages appurtenant to each unit. The waterfront facilities will consist of non-permanent docks and each unit shall have a limited common element area to install a boat hoist (but subject to the rights of the public in and to the bottomlands of the Great Lakes). The Developer will pay for all "must be built" improvements out of its own capital. All units (except for those in the additional land) are shown as "must be built."

C. Recreational Facilities.

The condominium will have two basic kinds of recreational facilities (that is, "amenities"). First, areas designated in the subdivision plan (Exhibit B to the Master Deed) as "open space" areas shall have paths and attractive landscaping. Second, along the waterfront non-permanent docks may be put in for seasonal use.

D. Roads.

The paved parking areas and drives in the condominium will be constructed by the Developer. Thereafter, it will be maintained by the Association. Neither the Antrim County Road Commission, nor the Village of Elk Rapids, will be responsible for maintenance (including snow-plowing) or repair of the private road, or associated parking areas. The development will have access off of public streets, using a private easement (also maintained by the Association), as shown in the subdivision plan.

E. Utilities.

The condominium will have basic electrical, telephone, and cable television service laid out to the boundary of each unit, which shall be below ground. The condominium will also have privately-owned hookups to the Village of Elk Rapids municipal water and sewer systems. It is the responsibility of each owner to arrange, pay for, and maintain hook-ups of

water and sewer running within the unit, with the initial hook-ups being done as part of the construction phase for the units. If an owner wants high speed cable or modem ("firewire", T-1 or the like), or wants a central security system, it shall be the owner's responsibility to arrange and pay for same.

F. Reserved Rights of the Developer.

(1) Conduct of Commercial Activities. The Developer has reserved the right to maintain on the condominium premises construction activity and equipment, advertising signs, storage areas, reasonable parking incident to the use of such areas, and such access to, from and over the condominium premises as may be reasonable to enable construction, development, and sale of the entire condominium.

(2) Right to Amend. The Developer has reserved the right to amend the Master Deed and the Exhibits thereto without approval from co-owners and mortgagees for certain purposes specified in the Master Deed. Those purposes include but are not limited to correcting errors and for any other purpose so long as the amendment would not materially alter or change the rights of a co-owner or mortgagee. Further, certain provisions of the Master Deed cannot be amended without Developer approval.

(3) Easements.

(a) For Use of Utilities. Developer has reserved easements to utilize, tap, tie into, extend and enlarge all utility mains in the condominium.

(b) For Use of Road. Developer has reserved easements and rights of use over any roads in the condominium for the purpose of ingress and egress during the period that Developer is constructing and marketing units, as well as for the purposes described above in section 1.

(4) Expansion. In the Master Deed, Article VI-B, the Developer has reserved the right (but without any obligation) to expand the Condominium by adding certain adjacent real property and constructing six (6) more units in one building. The time to accomplish this expansion is set in Articles VI-B and VI-A of the Master Deed. Any expansion would require governmental approvals at that time. Were an

expansion to occur, the percentage of value would be re-computed using the same formula in the Master Deed, Article VI.

(5) General. In the condominium documents and in the Michigan Condominium Act, certain rights and powers are granted or reserved to the Developer to facilitate the development and sale of the condominium, including the power to approve or disapprove a variety of proposed acts and uses and the power to secure representation on the Association Board of Directors.

4. Legal Documentation.

A. General.

The condominium was established pursuant to the Master Deed recorded in the Antrim County Register of Deeds and contained in the Purchaser Information Booklet for the condominium. The Master Deed includes the Bylaws as Exhibit A, the Condominium Subdivision Plan (the drawings) as Exhibit B, and certain governmental restrictions as Exhibit C.

B. Master Deed.

The Master Deed contains the definitions of certain terms used in connection with the condominium (Article III), the percentage of value assigned to each unit in the condominium (Article VI), a general description of the units and common elements included in the condominium and a statement regarding the relative responsibilities for maintaining the common elements (Article IV). Article VII of the Master Deed covers easements. Article VIII reserves in favor of the Developer the right to amend the condominium documents for various purposes including providing for the correction of errors and complying with the requirements of certain lending institutions. Article VI-A reserves to the Developer certain statutory rights regarding the timing of the development. Article VI-B contains the right to expand the Condominium.

C. Bylaws. The Bylaws contain provisions relating to the operation, management and fiscal affairs of the condominium and, in particular, sets forth the provisions relating to the assessment of Association members for the purpose of paying the costs of operation of the condominium. **Article VI of the Bylaws contains certain restrictions upon the ownership,**

occupancy and use of the condominium; these should be studied carefully to assure that your planned use and expectations are met. Article VI also contains provisions permitting the adoption of rules and regulations governing the common elements and the condominium. Article VI-A contains restrictions on use of the water frontage on Grand Traverse Bay. Article VI-D **PROHIBITS ABSOLUTELY** the use or operation of any unit as a day care or foster care facility, regardless of any licensing by the State of Michigan.

D. Condominium Subdivision Plan. The Condominium Subdivision Plan is a survey depicting the physical location and boundaries of each of the units and all of the common elements in the condominium. These drawings are attached to the Master Deed as Exhibit B.

5. Developer's Background and Experience; Management Contract.

The Developer, The Lodge Group, L.L.C., a Michigan limited liability company, has been organized solely for the single purpose of holding title to, and developing the Condominium. The Fowler family owns the membership interests in the LLC. The manager of the LLC is Kenneth Fowler, of Lansing, Michigan. Mr. Fowler has been involved in real estate for thirty or more years through other entities. This is the first development of this kind for the LLC, and Mr. Fowler's first too.

There are no pending judicial or administrative proceedings involving the condominium or Developer. Mr. Fowler's other business entities are, from time to time, involved in litigation. Any cases in which Mr. Fowler or his other business entities are involved in will not materially affect the Condominium.

Management Agent. At present, the Developer has not selected a management agent for the condominium.

6. Operation of the Condominium.

A. The Condominium Association.

The ultimate responsibility for management and maintenance of the condominium is vested in the Association. As each individual purchaser acquires title to a condominium

unit, the purchaser will also become a member of the Association. The Articles of Incorporation of the Association, along with the Bylaws, control procedural operations of the Association. The Association is operated by officers, who are overseen by its Board of Directors (whose initial member is the Developer). Until a successor Board of Directors is elected by the members, the Association will be controlled by the Director named by Developer. Developer's rights of representation on the Association's Board of Directors are set forth in Article XI of the Bylaws. Overall control of the Association may be exerted by the membership, that is, the co-owners of units.

B. Percentages of Value.

The percentage of value of each unit in the condominium is equal on matters shared in common. The percentage of value assigned to each unit determines, among other things, the value of each co-owner's vote and the co-owner's proportionate share of regular and special Association assessments and of the proceeds of administration of the condominium. Certain limited common elements are for the benefit of less than all the co-owners and Developer, and, where voting on issues affecting these limited common elements is required, only the benefitted parties may vote. These limitations apply primarily to any common entrances, stairs, elevators, etc., as well as any designated parking and garages. It may also apply to certain portions of utility hook-ups. If the Condominium is expanded, it is expected that each building will be responsible for its own maintenance and upkeep.

C. Project Finances.

(1) **Budget.** Article II of the Bylaws requires the Board of Directors to adopt an annual budget for the operation of the condominium. The Association's only source of revenue to fund its budget is by the assessment of its members. The initial budget for the condominium was formulated by the Developer and is intended to provide for the normal and reasonably predictable expenses of administration of the condominium, if developed with seven (7) units. To the extent that estimates prove inaccurate during actual operations; and to the extent that the goods and services necessary to service the condominium change in cost in the future -, the budget and the expenses of the Association also will require revision. **The initial budget for the Association has been included as Appendix A to this Disclosure Statement.**

Developer makes no representation or warranty that the budget attached as Appendix A accurately reflects the assessments that will be charged by the Association.

(2) Assessments. Except as set forth below with respect to the Developer, each co-owner of a unit included in the condominium must pay for the expenses of general administration of the Association in proportion to the percentage of value assigned to the unit(s) the co-owner owns. The Board of Directors may also levy special assessments in accordance with the provisions of Article II, Section 3(b) of the Bylaw. As set forth in Article II, Section 4 of the Bylaws, the Developer does not pay Association assessments for the units it owns until they are occupied but does reimburse the Association for certain expenses it may incur for such units.

(3) Foreclosure of Lien. The Association has a lien on each unit to secure payment of Association assessments. The Bylaws provide that the Association may foreclose its lien in the same fashion that mortgages may be foreclosed by action or by advertisement under Michigan law.

(4) Possible Additional Liability. It is possible for co-owners to become obligated to pay a percentage share of assessment delinquencies incurred by other co-owners. This can happen if a delinquent co-owner defaults on a first mortgage and if the mortgagee forecloses. The delinquent assessments then became a common expense which is reallocated to all the co-owners, including the first mortgagee, in accordance with the percentages of value in the Master Deed. The Michigan Condominium Act (Section 58) provides:

If the mortgagee of a first mortgage of record or other purchaser of a condominium unit obtains title to the condominium unit as a result of foreclosure of the first mortgage, such person, its successors and assigns, is not liable for the assessments by the [Association] chargeable to the unit which became due prior to the acquisition of title to the unit by such person. The unpaid assessments are deemed to be common expenses collectible from all of the condominium unit owners including such persons, its successors and assigns.

D. Insurance.

(1) **Title Insurance.** The Purchase Agreement provides that the Developer shall furnish each purchaser a commitment for an Owner's title insurance policy at or prior to closing, and that the policy itself shall be ordered at closing. The cost of the owner's commitment and policy will be paid by the Developer.

(2) **Other Insurance.** The condominium documents require that the Association carry fire, casualty, vandalism, malicious mischief and liability insurance, if applicable, pertinent to the ownership, use and maintenance of the common elements of the condominium. The insurance policies have deductible clauses and, to the extent thereof, losses will be borne by the Association. The Board of Directors is responsible for obtaining insurance coverage for the Association. Each co-owner's pro rata share of the annual Association insurance premiums is included in the monthly assessment. The Association insurance policies are available for inspection during normal working hours. A copy of the Certificate of Insurance with respect to the condominium will be furnished to each co-owner upon request. The insurance coverage carried by the Association will not cover an owner's personal possessions, and each owner should expect to procure and maintain what amounts to homeowner's insurance. Also, any limited common elements may require separate insurance which must be paid for by the benefited properties thereof, including boat owner's liability and spill (pollution coverage) insurance.

The Association should periodically review all insurance coverage to be assured of its continued adequacy and each co-owner should do the same with respect to the co-owner's personal insurance.

E. Restrictions on Ownership, Occupancy and Use.

Article VI of the Bylaws contains comprehensive restrictions on the use for the condominium units and the common elements. It is impossible to paraphrase these restrictions without risking the omission of some portion that may be of significance to a purchaser. Consequently, each purchaser should examine the restrictions with care to be sure that they do not infringe upon an important intended use. The following is a list of certain of the most significant restrictions:

(1) Units are to be used only for single family residential purposes.

(2) Reasonable regulations may be adopted by the Board of Directors of the Association concerning the use of common elements, without vote of the co-owners.

(3) Units may only be leased for periods of six months or greater - no short-term rentals are permitted.

7. Rights and Obligations Between Developer and Co-owners.

A. Before Closing.

The respective obligations of the Developer and the purchaser of a unit in the condominium prior to closing are set forth in the Reservation Agreement (if applicable), Purchase Agreement, and Escrow Agreement. Those documents contain, among other things, provisions relating to the disposition of earnest money deposits advanced by the purchaser prior to closing and the anticipated closing adjustments, and should be closely examined by all purchasers. The Purchase Agreement provides for the release of the deposit to any purchaser who withdraws from a Purchase Agreement in accordance with the Purchase Agreement. Such a withdrawal is permitted by each Purchase Agreement if it takes place within nine business days after the purchaser has received all of the condominium documents or if the condominium documents are changed in a way that materially reduces the purchaser's rights. The Purchase Agreement also provides that a deposit will be released to the Developer if the purchaser defaults in any obligation under the Purchase Agreement after the Purchase Agreement has become binding upon the purchaser. The Purchase Agreement also provides that deposits will be released to the Developer as construction targets occur, or when the closing of the sale takes place.

B. At Closing.

Each purchaser will receive by warranty deed fee simple title to the purchaser's unit, subject to the condominium documents and easements and restrictions of record.

C. After Closing.

(1) **General.** Subsequent to the purchase of the unit, the legal relationship between the Developer and the co-

owner are governed by the Master Deed, except to the extent that any provisions of the Purchase Agreement are intended to survive the closing.

(2) **Warranty.** Express warranties are not provided unless specifically stated in the Purchase Agreement. A copy of the Developer's limited warranty is contained within, and thus provided to each purchaser, when the Purchase Agreement is signed.

DEVELOPER'S LIMITED WARRANTY IS THE ONLY WARRANTY APPLICABLE. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING UNDER STATE LAW OR THE MAGNUSSON-MOSS WARRANTY ACT, INCLUDING BUT NOT LIMITED TO ALL IMPLIED WARRANTIES OF FITNESS, MERCHANTABILITY OR HABITABILITY, ARE DISCLAIMED AND EXCLUDED.

(3) **Limitation of Developer's Liability.** The Purchase Agreement strictly limits Developer's liability to the obligations provided in Developer's limited warranty.

8. Purpose of Disclosure Statement.

This Disclosure Statement paraphrases various provisions of the Purchase Agreement, Master Deed, and other documents required by law. It is not a complete statement of all the provisions of those documents which may be important to purchasers. In an attempt to be more readable, this Disclosure Statement omits most legal phrases, definitions and detailed provisions of the other documents. Certain of the terms used herein are defined in the Michigan Condominium Act, as amended. This Disclosure Statement is not a substitute for the legal documents which it draws information from, and the rights of purchasers and other parties will be controlled by the other legal documents and not by this Disclosure Statement.

The State of Michigan publishes The Condominium Buyers Handbook which the Developer has delivered to you.

The Developer assumes no obligation, liability, or responsibility as to the statements contained therein or omitted from the Condominium Buyer's Handbook.

APPENDIX A
TO
DISCLOSURE STATEMENT

ESTIMATED ANNUAL BUDGET AND ASSESSMENTS
(BASED ON SEVEN UNITS)

1. Accounting and Legal:	\$650.00
2. Management Agent:	\$0.00
3. Office Supplies:	\$100.00
4. Bank Service Charges:	\$60.00
5. Insurance:	\$4,500.00*
6. Snow-plowing:	\$400.00
7. Building Maintenance:	\$2,400.00
8. Landscaping and Grounds:	\$2,400.00
9. Road Maintenance and Lighting:	\$480.00
10. Elevator Inspection and Maint.	\$1,800.00
11. Common Utilities:	\$2,400.00
12. Reserve (10%)	\$1,800.00
TOTAL ANNUAL EXPENSES:	<u>\$16,690.00</u>
Estimated annual assessments:	\$2,427.14 per Unit

***Note: This is an estimate only.** Actual insurance costs could be higher, depending on actual history.