

**BYLAWS**  
**OF**  
**MONTEGO BAY CONDOMINIUM ASSOCIATION**

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**ARTICLE 1.  
GENERAL PROVISIONS**

**1.1 Defined Terms.** Capitalized terms used in these Bylaws without definition shall have the meanings specified for such terms in the Arizona Condominium Act, A.R.S. §33-1201, et seq., and in the Condominium Declaration for Montego Bay Condominiums, recorded in the records of Maricopa County, Arizona, as amended from time to time.

**1.2 Principal Office.** The principal office of the Association shall be located at the known place of business of the Association designated in the Articles or such other place as may be designated from time to time pursuant to Arizona law. Meetings of Members and the Board of Directors may be held at the principal office of the Association or at such other place as may be designated by the Board of Directors.

**1.3 Conflicting Provisions.** In the case of any conflict between the Articles and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

**1.4 Designation of Fiscal Year.** The fiscal year of the Association shall begin on the 1st day of January and end of the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

**1.5 Financial Records.** An annual report consisting of at least the following shall be made available to all Members within 60 days after the close of each fiscal year:

- (a) A balance sheet;
- (b) An operating (income) statement; and
- (c) A statement of changes in financial position for the fiscal year.

The annual financial report shall be on an audited, reviewed or compiled basis, as the Board determines, by an independent public accountant.

**1.6 Amendment.**

**1.6.1** Except as provided for in Subsection 1.6.2 of this Section, these Bylaws may only be amended, at a regular or special meeting of the Members, by a vote of the Members holding more than fifty percent (50%) of the votes in the Association.

**1.6.2** During the Period of Declarant Control, the Declarant, without the consent of any Unit Owner, shall have the right to amend these Bylaws in order to: (i) comply with the Condominium

Act or any other applicable law if the amendment does not adversely affect any Unit Owner; (ii) correct any error or inconsistency in these Bylaws if the amendment does not adversely affect the rights of any Unit Owner; or (iii) comply with the requirements or guidelines in effect from time to time of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments including, without limitation, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration or the Veterans Administration.

1.6.3 So long as the Declarant owns one or more Units, any amendment must be approved in writing by the Declarant.

**1.6 Notices.** All notices, demands, statements or other communications required to be given or served under these Bylaws shall be in writing and shall be deemed to have been duly given and served if delivered personally or sent by United States mail, postage prepaid, (i) if to a Unit Owner, at the address which the Unit Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Unit of such Unit Owner, or (ii) if to the Association, the Board of Directors or to the Managing Agent, at the principal office of the Managing Agent or at such other address as shall be designated by notice in writing to the Unit Owners pursuant to this Section. A notice given by mail shall be deemed to have been received by the person to whom the notice was addressed on the earlier of the date the notice is actually received or three days after the notice is mailed. If a Unit is owned by more than one person, notice to one of the Unit Owners shall constitute notice to all Unit Owners of the same Unit.

## **ARTICLE 2. MEETINGS OF MEMBERS**

**2.1 Annual Meeting.** The first Annual meeting of the Members shall be held within one (1) year of the date on which the Association is incorporated, and an annual meeting of the Members shall be held during each calendar year thereafter. The date, time and place of each annual meeting of the Members shall be determined by the Board of Directors.

**2.2 Special Meetings.** Special meetings of the Members may be called at any time by the President or by a majority of the Board of Directors or by Unit Owners having at least twenty-five percent (25%) of the votes in the Association.

**2.3 Notice of Meetings.** Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting by mailing a copy of each notice, postage prepaid, no fewer than ten (10) nor more than sixty (60) days before such meeting to each Member entitled to vote at the meeting addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the items on the agenda including the general nature of any proposed amendment to the Declaration or the Bylaws, any budget changes and any proposal to remove a director or officer. When a meeting is adjourned to another date, time or place, a notice of the new date, time or place is not required if the new date, time or place is announced at the meeting before adjournment. At the adjourned meeting, the Association may transact any business which might

have been transacted at the original meeting. If a new record date for the adjourned meeting is or must be fixed under Subsection 2.8 below, the Association shall give notice of the adjourned meeting pursuant to this Section to persons who are Members as of the new record date. A Member's attendance at a meeting waives objection to the lack of notice or defective notice of the meeting, unless the Member at the beginning of the meeting objects to holding the meeting and transaction business at the meeting. In addition, a Member's attendance at a meeting waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Member objects to considering the matter at the time it is presented.

**2.4 Quorum.** Except as otherwise provided in the Articles, the Declaration or these Bylaws, the presence in person or by absentee ballot of Members entitled to cast one-tenth (1/10th) of the total authorized votes in the Association shall constitute a quorum at all meetings of the Members. If a quorum shall not be present at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time until a quorum shall be present.

**2.5 Multiple Owners.** If only one of the multiple Unit Owners of a Unit is present at a meeting of the Association, he is entitled to cast all the votes allocated to that Unit. If more than one of the multiple Unit Owners are present, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the multiple Unit Owners unless the Declaration expressly provides otherwise. There is majority agreement if any one of the multiple Unit Owners casts the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Unit Owners of the Unit.

**2.6 Proxies Prohibited; Absentee Ballots.** After termination of the period of declarant control, votes allocated to a unit may not be cast pursuant to a proxy. The association shall provide for votes to be cast in person and by absentee ballot and may provide for voting by some other form of delivery. Any action taken at an annual, regular or special meeting of the members shall comply with all of the following if absentee ballots are used:

- (a) The absentee ballot shall set forth each proposed action.
- (b) The absentee ballot shall provide an opportunity to vote for or against each proposed action.
- (c) The absentee ballot is valid for only one specified election or meeting of the members and expires automatically after the completion of the election or meeting.
- (d) The absentee ballot specifies the time and date by which the ballot must be delivered to the board of directors in order to be counted, which shall be at least seven days after the date that the board delivers the unvoted absentee ballot to the member.
- (e) The absentee ballot does not authorize another person to cast votes on behalf of the member.

Votes cast by absentee ballot or other form of delivery are valid for the purpose of establishing a quorum.

**2.7 Suspension of Voting Rights.** In the event any Unit Owner is in arrears in the payment of any Assessment, monetary penalties or other fees and charges due under the terms of the Condominium Documents for a period of fifteen (15) days, the Unit Owner's right to vote as a member of the Association shall be automatically suspended and shall remain suspended until all payments, including accrued interest and attorneys' fees, are brought current, and for a period not to exceed sixty (60) days for any infraction of the Condominium Documents.

**2.8 Record Date.** For any meeting of the Members, the Board of Directors shall fix a date as the record date for determining the Members entitled to notice of the meeting. If the Board of Directors fails to fix a record date for any meeting of the Members, the record date for determining the Members entitled to notice of the meeting shall be the business day before the day on which the notice of the meeting is given. The Board of Directors shall also fix a date as the record date for determining the Members entitled to vote at a meeting of the Members. If the Board of Directors fails to fix such a record date, the Members on the date of the meeting who are otherwise eligible to vote are entitled to vote at the meeting. A determination of Members entitled to notice of or to vote at a membership meeting is effective for any adjournment of the meeting, unless the Board of Directors fixed a new date for determining the right to notice or the right to vote. The Board of Directors shall fix a new date for determining the right to notice or the right to vote if the meeting is adjourned to a date that is more than seventy (70) days after the record date for determining Members entitled to notice of the original meeting. The Board of Director shall fix a date as the record date for the purpose of determining the Members entitled to exercise any rights in respect of any other lawful action of the Members. If a record date is not fixed by the Board of Directors, Members at the close of business on the day on which the Board of Directors adopts the resolution relating to that record date, or the sixtieth (60<sup>th</sup>) day before the date of other action, whichever is later, are entitled to exercise those rights. The record date fixed by the Board of Directors under this Section shall not be more than seventy (70) days before the meeting or action requiring a determination of Members.

**2.9 Organization and Conduct of Meeting.** All Members attending a meeting of the Members shall register with the Secretary (or such person or persons as may be designated by the Secretary) prior to commencement of the meeting, and all proxies must be filed with the Secretary (or such person or persons as may be designated by the Secretary) prior to commencement of the meeting. After the meeting is called to order by the chair of the meeting, no further proxies or changes, substitutions or revocation of proxies will be accepted. All meetings of the Members will be called to order and chaired by the President of the Association, or if there is no President or if the President is absent or so requests, then by the Vice President. If both the President and Vice President are not present at the meeting, any other officer of the Association or such member of the Association as is appointed by the Board of Directors may call the meeting to order and chair the meeting. The chair of the meeting may appoint any person (whether or not a Member of the Association) to act as Recording Secretary. The chair of the meeting shall have the authority to determine the order of business to be conducted at the meeting and to establish reasonable rules for expediting the business of the meeting.

**2.10 Action by Written Ballot.** Any action that the Association may take at any annual, regular or special meeting of the Members may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall: (1) indicate the number of responses needed to meet the quorum requirements; (2) state the percentage of approvals necessary to approve each matter other than election of directors; and (3) specify the time by which a ballot must be delivered to the Association in order to be counted, which time shall not be less than three (3) days after the date that the Association delivers the ballot. Once a written ballot has been received by the Association, the ballot may not be revoked. Approval by written ballot pursuant to this Section is valid only if both the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action and the number of approvals equals or exceeds the number of votes which would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

**2.11 Action by Written Consent.** The Members may approve any action required or permitted by law that requires the Members' approval without a meeting of the Members if the action is approved by Members holding at least a majority of the voting power in the Association, unless the Declaration, Articles, these Bylaws or applicable law require a different amount of voting power. The action shall be evidenced by one or more written consents describing the action taken, signed by those Members representing at least the requisite amount of the voting power, and delivered to the Association for inclusion in the minutes or filing with the corporate records of the Association. If not otherwise fixed by the Board of Directors pursuant to Section 2.8 above, the record date for determining Members entitled to take action without a meeting is the date the first Member signs the consent to the action. A consent signed under this Section has the effect of a meeting vote and may be described as such in any document. Written notice of Member approval pursuant to this Section shall be given to all Members who have not signed the written consent. Unless otherwise specified in the consent or consents, the action is effective on the date that the consent or consents are signed by the last Member whose signature results in the requisite amount of the voting power. Any Member may revoke the Member's consent by delivering a signed revocation of the consent to the President or Secretary before the date that the consent or consents are signed by the last Member whose signature results in the requisite amount of the voting power.

**2.12 Voting Requirements.** Unless otherwise provided in the Association Documents, if a quorum is present at a meeting of the Members, the affirmative vote of a majority of the votes represented and voting is the act of the Members.

### **ARTICLE 3. BOARD OF DIRECTORS**

**3.1 Number.** The affairs of this Association shall be managed by a board of directors. During the Period of Declarant Control, the minimum number of directors shall be one (1). After the expiration of the Period of Declarant Control, the minimum number of directors shall be three (3). The maximum number of directors shall be nine (9). The number of directors may be changed from time to time by the Board of Directors within the minimum and maximum number of directors prescribed in this Section but the number of directors must always be an odd number. During the

Period of Declarant Control, the Declarant shall have the right to appoint and remove the members of the Board of Directors who do not have to be Unit Owners. Upon the termination of the Period of Declarant Control, the Unit Owners shall elect the Board of Directors, all of whom must be Unit Owners. The Declarant may voluntarily surrender his right to appoint and remove the members of the Board of Directors before termination of the Period of Declarant Control, and in that event the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or the Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

**3.2 Term of Office.** Directors appointed by the Declarant shall hold office until their successors are elected and qualify. All directors elected by the Members shall be elected for a term of one (1) year. Despite the expiration of a director's term, a director shall continue to hold office until the director's successor is elected, designated or appointed and qualified, until the director's resignation or removal or until there is a decrease in the number of directors.

**3.3 Resignation of Directors.** A director may resign at any time by delivering written notice to the Board of Directors, its presiding officer or the Association. A resignation is effective when the notice is delivered unless the notice specifies a later effective date or event. If a resignation is made effective at a later date, the Board may fill the pending vacancy before the effective date if the Board provides that the successor does not take office until the effective date.

**3.4 Removal.** Except with respect to members of the Board of Directors appointed by the Declarant, at any annual or special meeting of the Members any one or more of the members of the Board of Directors may be removed from the Board of Directors, with or without cause, by Members having more than two-thirds (2/3) of the votes entitled to be cast by the Members present in person or by absentee ballot at the meeting, and a successor shall then and there be elected to fill the vacancy thereby created.

**3.5 Compensation.** No director shall receive compensation for any service he may render to the Association which is within his duties as a director. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties. A director may receive compensation for services rendered to the Association which are outside his duties as a director if the payment of such compensation is approved by all of the other directors.

**3.6 Action Taken Without a Meeting.** The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written consent of all the directors. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors. Any action taken by the Board of Directors pursuant to this Section shall be effective when the last director signs the consent, unless the consent specifies a different effective date.

**3.7 Vacancies.** Until the termination of the Period of Declarant Control, any vacancy on the Board of Directors shall be filled by the Declarant. Except with respect to members appointed by the Declarant and vacancies caused by the removal of a member of the Board of Directors by a vote of the Unit Owners as set forth in Section 3.4 of these Bylaws, all vacancies in the Board of Directors shall be filled by a vote of a majority of the remaining directors though less than a quorum

or by a sole remaining director. Any person so elected shall serve the unexpired portion of the prior director's term. Any newly created directorship shall be deemed a vacancy. Any person elected to fill such a vacancy shall serve until the next annual meeting of the members.

**3.8 Regular Meetings.** If the time and place of a meeting of the Board of Directors is fixed by the Board of Directors, the meeting is a regular meeting. All other meetings of the Board of Directors are special meetings. Regular meetings of the Board of Directors may be held with or without notice to the directors of the date, time, place or purpose of the meeting.

**3.9 Special Meetings.** Special meetings of the Board of Directors may be called by the President on two (2) business days notice to each director, given in writing, by hand delivery, mail or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) directors.

**3.10 Notice.** A director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless the director at the beginning of the meeting or promptly on the director's arrival at the meeting objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting. Notice of meetings of the Board of Directors shall be given to the Members of the Association within such time and in such manner as is required by law.

**3.11 Telephonic Meetings.** A director may participate in a regular or special meeting of the Board of Directors through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting, and a director participating in a meeting by such means is deemed to be present in person at the meeting.

**3.12 Quorum and Voting.** A majority of the prescribed number of directors shall constitute a quorum for the transaction of business. If a quorum is present when a meeting is convened, the quorum shall be deemed to exist until the meeting is adjourned, notwithstanding the departure of one or more directors. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the Board of Directors unless the Articles or Bylaws require the vote of a greater number of directors. A director who is present at a meeting of the Board when corporate action is taken is deemed to have assented to the action taken unless either: (1) the director objects at the beginning of the meeting or promptly on the director's arrival to holding it or transacting business at the meeting; (2) the director's dissent or abstention from the action taken is entered in the minutes of the meeting; or (3) the director delivers written notice of the director's dissent or abstention to the presiding officer of the meeting before its adjournment or to the Association before 5:00 P.M. on the next business day after the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

**3.13 Powers and Duties.** The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association and may exercise all corporate powers of the Association, subject to any limitation set forth in the Condominium Documents. The duties of the Board of Directors shall include, without limitation:



- (a) Open bank accounts on behalf of the Association and designate the signatories thereon;
- (b) Make, or contract for the making, of repairs, additions to, improvements to or alterations of the Condominium and repairs to the Common Elements, in accordance with the Condominium Documents, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;
- (c) In the exercise of its discretion, enforce by legal means the provisions of the Condominium Documents;
- (d) Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair, replacement of the Common Elements and provide services for the Condominium, and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties;
- (e) Provide for the operation, care, upkeep and maintenance of all of the Common elements and services of the Condominium and borrow money on behalf of the Association when required in connection with any one instance relating to the operation, upkeep and maintenance for the Common Elements;
- (f) Prepare and adopt an annual budget for the Association prior to the commencement of each fiscal year;
- (g) Adopt and publish rules and regulations governing the use of the Common Elements and facilities and the personal conduct of the Members and their guests, lessees, invitees and family members thereon and establish penalties for the infraction thereof;
- (h) Suspend the voting rights and the right to use of the Common Elements of a Member;
- (i) Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of the Condominium Documents;
- (j) Except to members of the Board of Directors appointed by the Declarant, declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;
- (k) Employ, hire and dismiss such employees as they deem necessary and to prescribe their duties and their compensation;
- (l) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or

at any special meeting when such statement is requested in writing by any Member entitled to vote;

(m) Supervise all officers, agents and employees of the Association and see that their duties are properly performed;

(n) Levy Assessments in accordance with the Declaration and take all necessary action to collect such Assessments;

(o) As required by the Declaration, issue, or cause an appropriate officer to issue upon demand to any person, a certificate setting forth whether or not any Assessment has been paid;

(p) Procure and maintain adequate property liability and other insurance as required by the Declaration;

(q) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(r) Cause the Common Elements to be maintained, as more fully set forth in the Declaration.

**3.14 Managing Agent.** The Board of Directors may employ for the Condominium a "Managing Agent" at a compensation established by the Board of Directors. The Managing Agent shall perform such duties and services as the Board of Directors shall authorize, including, but not limited to, all of the duties listed in the Condominium Act, the Declaration and these Bylaws except for such duties and services that under the Condominium Act or the Declaration may not be delegated to the Managing Agent. The Board of Directors may delegate to the Managing Agent all of the powers granted to the Board of Directors or the officers of the Association by the Act, the Declaration and these Bylaws other than the following powers:

(a) To adopt the annual budget, any amendment thereto or to assess any Common Expenses;

(b) To adopt, repeal or amend Rules;

(c) To designate signatories on Association bank accounts;

(d) To borrow money on behalf of the Association;

(e) To acquire and mortgage Units;

(f) To allocate Limited Common Elements.

Any contract with the Managing Agent must provide that it may be terminated with or without cause and without payment of any penalty or termination fee on no more than thirty (30) days' written notice. The term of any such contract may not exceed three (3) years.

#### ARTICLE 4. OFFICERS AND THEIR DUTIES

**4.1 Enumeration of Officers.** The principal officers of the Association shall be the president, vice president, the secretary, and the treasurer. The Board of Directors may create such other offices as the affairs of the Association may require. During the Period of Declarant Control, all officers of the Association shall be appointed and removed by the Declarant. After the termination of the Period of Declarant Control, all officers shall be elected by the Board of Directors. After the expiration of the Period of Declarant Control, the President must be a member of the Board of Directors. Any other officers may, but need not, be members of the Board of Directors.

**4.2 Election of Officers.** The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

**4.3 Term.** After the termination of the Period of Declarant Control, the officers of the Association shall be elected annually by the Board of Directors and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

**4.4 Resignation and Removal.** Except for officers appointed by the Declarant, any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**4.5 Vacancies.** Except for officers appointed by the Declarant, a vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**4.6 Multiple Offices.** Any two or more offices may be held by the same person, except after the expiration of the Period of Declarant Control, the offices of President and Secretary may not be held by the same person.

**4.7 Powers and Duties.** To the extent such powers and duties are not assigned or delegated to the Managing Agent pursuant to Section 3.10 above, the powers and duties of the officers shall be as follows:

**President.** The president shall be the chief executive officer of the Association; shall preside at all meetings of the Board of Directors or the Members; shall see that orders and resolutions of the Board of Directors are carried into effect; sign checks and promissory notes of the Association; deposit monies in bank accounts of the Association; and shall generally manage the business of the Association.

**Vice-President.** The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board of Directors.

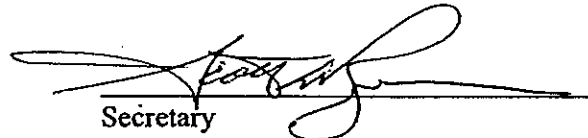
**Secretary.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the members; authenticate the records of the Association, keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board of Directors and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board of Directors.

**Treasurer.** The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign checks and promissory notes of the Association; shall keep proper books of account; shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members; and, in general, perform all the duties incident to the office of treasurer.

**4.8 Officers Authorized to Execute Amendments to Declaration.** Any amendments to the Declaration or the Plat which are required by the Condominium Act or the Declaration to be executed by the Association may be executed by either the President or Vice-President of the Association.

#### **CERTIFICATION**

I hereby certify that I am the duly elected Secretary of the Palm Court Condominium Association and that the foregoing Bylaws are the original Bylaws of the Association and were duly adopted by the Board of Directors of the Association on the 25 day of October, 2006.

  
Secretary