

INVESTMENT
TRUSTS
ASSOCIATION

Aug 2 12 33 PM '95

July 31, 1995

Mr. Bradley Litchfield
Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Supplement To
ADR 1995-27

National
Association
of

Dear Mr. Litchfield:

Real Estate
Investment
Trusts®

In response to your request, enclosed are copies of the Articles of Organization and Bylaws of the National Association of Real Estate Investment Trusts, Inc.

Please call me if you need any other information for your consideration of our request for an advisory opinion.

1129 Twentieth
Street, N.W.
Suite 305
Washington, D.C.

Very truly yours,

Margaret A. Campell

Margaret A. Campell
Associate General Counsel

20036-3182

Enclosures

202-785-8717

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**NATIONAL ASSOCIATION OF REAL ESTATE
INVESTMENT TRUSTS®**

BYLAWS

ARTICLE I

Definitions, Purpose and Annual Year

Section 1. Definitions

A. NAREIT

The name of the organization, pursuant to its Articles of Organization, is National Association of Real Estate Investment Trusts, Inc., hereinafter referred to as the "Association" or "NAREIT."

B. REIT

As used in these Bylaws, the terms "real estate investment trust" and "REIT" refer to:

- (1) Any entity that meets the requirements set forth in Section 856(a) of the United States Internal Revenue Code (or any successor provision of such code) as amended from time to time or;
- (2) Any other entity that, pursuant to policies currently in effect and set forth in its charter documents or bylaws or in resolutions duly adopted by the holders of the equity interests therein or by its board of directors or other comparable governing body, is operating or, if such entity has not yet commenced operations, proposes to operate in such manner that the Board of Governors of the Association, by the affirmative vote of two-thirds (2/3) of the members thereof present at a meeting duly called and held and at which a quorum is present and voting, shall determine that the policies, interests and operations of such entity are compatible with those of entities that qualify for membership pursuant to Subsection B.1, above.

C. **Advisor**

An Advisor is defined as any entity that, pursuant to contract, provides investment advice and portfolio management services, and otherwise directs the day-to-day activities of one or more REITs;

D. **Sponsor**

A Sponsor is defined as any entity that is directly instrumental in the organization of one or more REITs and continues, directly or through affiliates, to participate in the management of one or more REITs.

Section 2. Purposes

The general purposes of the Association are:

- A. To provide real estate investment trusts with effective and continuous national leadership in the public interest;**
- B. To promote adherence to the highest standards of ethics among real estate investment trusts;**
- C. To provide suitable means for the dissemination and exchange of information and ideas among the members, and to keep them advised of developments, in the general areas of real estate investing and financing and the regulatory framework in which REITs operate;**
- D. To advance generally the interests of real estate investment trusts and the membership of NAREIT, and to provide representation to public authorities at the federal, state and local level on developments affecting those interests;**
- E. To encourage and assist sound real estate investment and development through promotion of appropriate tax treatment for real estate investment trusts;**
- F. To serve as a vehicle for the development and dissemination of policies and positions on behalf of real estate investment trusts and the membership of NAREIT, concerning such matters as rules, regulations and statements of policies adopted by public and private regulatory authorities and ethical standards of conduct among REITs, and to make, from time to time, studies of an industry-wide character for the purpose**

of evaluating, devising and advocating ways and means of improving such rules, regulations and intra-industry practices, or as may otherwise be useful in solving problems of the members of the Association;

- G. To encourage discussion of problems generally by sponsoring meetings, seminars and conferences focusing on accounting, legal, tax, securities and management matters, and by the dissemination, to interested parties, of materials developed through such meetings; and
- H. To provide for research, analysis and the dissemination of industry-wide statistics, as well as the publication of other information, of benefit to the membership of the Association, as well as the general public.

Section 3. Annual Year

The membership year and the fiscal year of the Association shall be the calendar year.

ARTICLE II Membership

Section 1. Classes of Members

Membership in the Association shall be divided into three classes as follows:

A. REIT Members

- (1) **Qualification** - A real estate investment trust must apply for membership in the Association in the manner specified by the Board of Governors from time to time. Upon the approval of such application by the Board of Governors and the payment of its dues in accordance with Article III hereof, the REIT becomes a REIT Member of the Association and is entitled to all the privileges and courtesies of the Association. Upon application and approval in the same manner, an Advisor or Sponsor, may become a REIT Member on behalf of the real estate investment trust(s) with which it is affiliated.
- (2) **Rights and Privileges** - Each real estate investment trust that is a REIT Member is entitled to one (1) vote on all matters submitted to the Members of the Association, including, without limitation, a vote for each open position for Elected Members of the Board of Governors. An

Advisor or Sponsor that becomes a REIT Member on behalf of affiliated real estate investment trusts is entitled to only one (1) vote on behalf of all of its affiliated REITs; provided, however, that the Advisor or Sponsor is entitled to the number of votes equal to the number of real estate investment trusts within the affiliated group to the extent each REIT pays dues to the Association as if it was not a member of an affiliated group of REITs.

Such voting rights are exercised through a Voting Delegate who is employed by, of (in the case of an Advisor or Sponsor) affiliated with, such REIT Member. Each REIT Member can appoint only one Voting Delegate at any given time. Such Voting Delegate: (a) shall be entitled to participate in discussions of and to vote, on behalf of such REIT Member, on all matters submitted to the members of the Association; and (b) shall be eligible to hold elective or appointive office and to sit on committees, all in accordance with the provisions of these Bylaws.

B. Associate Members

- (1) **Qualification - Any person not eligible to become a REIT Member of the Association may apply for admission as an Associate Member of the Association. Any such person or entity must apply for Associate Membership in the Association in the manner specified by the Board of Governors from time to time. Upon the approval of such application by the Board of Governors or its designee and the payment of its dues in accordance with Article III hereof, such person becomes an Associate Member of the Association and is entitled to all the privileges and courtesies of the Association accruing to Associate Members. The Board of Governors or its designee shall approve an application for Associate Membership only after finding that: (a) the application is not an attempt by an entity eligible for REIT Membership in the Association to avoid the obligation of REIT Membership; and (b) the Associate Membership of such person or entity in the Association would be beneficial to the Association because of such person's or entity's performing professional expertise in the affairs of real estate investment trusts, or for any other reason, each such finding to be totally within the discretion of the Board or its designee. The Board may approve the creation of separate categories of Associate Membership, such as Academic Members and Endowment Members.**
- (2) **Rights and Privileges - Each Associate Member has the right to vote for one Elected Member of the NAREIT Board of Governors at each Annual Meeting, but has no other right to vote on any matter submitted to the**

Association members. Each Associate Member shall otherwise be permitted to participate in the affairs of the Association, as permitted by these Bylaws and as determined from time to time by the Board of Governors of the Association.

C. Honorary Members

- (1) **Qualifications** - Each Chair of the Association, at the end of his or her term of office, becomes an Honorary Member of the Association for life. In addition, the Board of Governors, in its sole discretion, has the authority to confer on any other person who has made a significant contribution to the Association and to the real estate investment trust industry, an Honorary Membership, to extend for one (1) year and to be renewable thereafter at the discretion of the Board of Governors for successive one (1) year terms.
- (2) **Rights and Privileges** - An Honorary Member is not required to pay any dues to the Association, does not have the right to vote on any matter submitted to the members of the Association, and is not eligible to hold elective office. An Honorary Member is: (a) entitled to participate, to the extent permitted by the chair, in discussions of matters submitted to the members of the Association; and (b) eligible to hold appointive office and to sit on committees, to the extent specifically permitted by the applicable provisions of these Bylaws. An Honorary Member's status as such shall not prevent him or her from serving as a Voting Member Delegate or an Associate Member.

Section 2. Termination of Membership for Cause

Any member shall be dropped from membership upon determination by the Board of Governors or designee that the member has: (1) failed after admission to meet the standards for admission and continued membership; (2) failed after admission to comply with the Standards of Ethics established by the Board of Governors or otherwise commonly accepted throughout the industry; or (3) failed to pay dues as fixed by the Board of Governors from time to time pursuant to these Bylaws. A member objecting to being dropped is entitled to representation by counsel of his or her choice at a hearing by the Board of Governors or a committee of at least three (3) members thereof appointed for that purpose, if request for hearing is delivered to the Chair within thirty (30) days after delivery of notice to the member that he or she has been dropped or that termination of his or her membership has been proposed. Delivery of any such notice or request shall be presumed to have been made two (2) days after the mailing thereof, postal prepaid, to the address appearing on the Association's records or two (2) days after the electronic

transmission of such notice or request to the telephone number appearing on the Association's records. The decision of the Board of Governors, or committee if appointed, shall be final.

ARTICLE III

Dues

Section 1. Establishment of Rates

The Board of Governors shall establish the annual rates of dues from time to time to be paid by the REIT Members and the Associate Members. Such rates may vary between classes of membership and within the same class of membership on the basis of such criteria (including without limitation in the case of dues assessed to REIT Members' value of assets) as the Board in its absolute discretion may determine. Except as set forth in Section 2 of this Article III, all dues are payable in advance in full by each member at the applicable annual rate so established and shall be due at the later of January 1 of the year with respect to which the dues are assessed or the date of the invoice thereof, and no portion of any dues paid on account of the current or of any past year is refundable.

Section 2. First Payment or Change of Membership

Each new member shall pay dues at the applicable rate then in effect for the class of membership and on the basis of the criteria theretofore established by the Board of Governors for other similar members at the time of approval by the Board of the application for membership, such dues to be prorated for the year of admission as a member on the basis that the number of months (including the month in which such application is approved) during the balance of such calendar year bears to twelve (12); and such prorated dues are payable at the time of such approval of the application. If a Member changes from Associate Membership to REIT Membership during any year, dues are payable as if the member were admitted to REIT Membership on the first day of the month in which such change occurs.

Section 3. Termination for Non-Payment of Dues

The President shall notify the Board of Governors of a member of any class that has failed to pay the prescribed membership dues within sixty (60) days after the due date thereof and, by vote of the Board, such membership will be terminated pursuant to Article II, Section 2.

Section 4. Reinstatement

Any member whose membership has been terminated for any reason may be considered for reinstatement. Dues shall be charged retroactively from the date the member's membership was terminated.

Section 5. Power to Waive

The Board of Governors or its designee may cancel or waive payment of any dues, assessments or other indebtedness of a member for any period.

**ARTICLE IV
Board of Governors**

Section 1. Authority and Responsibility

The Board of Governors is the governing body of the Association, vested with the powers necessary for the management and administration of the Association, and has supervision, control and direction of all the affairs of the Association, including but not limited to: determination of policies of the Association and changes therein; development of and active prosecution of the objectives of the Association; supervision of the disbursement of its funds; and the assumption of debt by the Association. With respect to any determinations of policies and changes therein that are of significant interest to the real estate investment trust and real estate industries, the Board shall promptly publish such determinations annually and on such other occasions as circumstances may require. The Board of Governors may adopt such rules and regulations for the conduct of its business as it deems advisable, and may, in the exercise of the powers granted, delegate certain of its authority and responsibility to the Executive Committee. The foregoing to the contrary notwithstanding, the Board of Governors shall not delegate authority and responsibility with respect to the following powers, which are specifically and exclusively reserved to the Board of Governors:

- A. Any active role of the Board of Governors in the budgetary process provided in these Bylaws;
- B. Election of the non-officer members of the Executive Committee;
- C. Election of an officer position established in Article VII, Section 1; and
- D. The power to approve applications for REIT Membership.

Section 2. Composition

The Board of Governors shall be constituted as follows:

- A. **Elected Members** - The Elected Members of the Board of Governors shall consist of not less than five (5) nor more than thirty-five (35) persons elected from the membership of the Association in accordance with Article XI. At the time of election:
- (1) At least two-thirds (2/3) of the Elected Members of the Board of Governors shall be Voting Delegates of REIT Members and
 - (2) Among such Voting Delegates, none shall be the Voting Delegate of a real estate investment trust that is affiliated with any other real estate investment trust whose Voting Delegate is a member of the Board of Governors (other than as an Ex-Officio Member described in Subsection C, below).
- B. **Special Members** - Upon the expiration of his or her term of office, each Chair, unless declining in writing so to serve, shall automatically become a Special Member of the Board of Governors with all voting rights for a term of three (3) years ending on the date of the Annual Meeting in the third year following the date of expiration of his or her term as Chair. The number of Special Members entitled to serve on the Board of Governors shall be in addition to, and exclusive of, the number of Elected Members prescribed above.
- C. **Ex-Officio Members** - Any past Chair of the Association who is not otherwise serving as either an Elected or Special Member of the Board may, at his or her own direction, exercised by written notice to the Secretary, serve ex-officio as a Member of the Board. Any such Ex-Officio Member shall, with the consent of the presiding officer, have the privilege of the floor at any meeting of the Board, but shall not be deemed to be a member of the Board for quorum or voting purposes.

Section 3. Tenure of Office

Except for those members who are elected to fill the unexpired term of a former Elected Member of the Board of Governors or unless necessary to stagger terms so that the terms of one-third (1/3) of the Elected members expire each year, Elected Members of the Board shall serve for a term of three (3) years each commencing immediately following the Annual Meeting at which they are elected and terminating

at the conclusion of the Annual Meeting for the year in which their terms expire. If the number of Board Members to be elected shall not be evenly divisible by three (3), fractions resulting from dividing the whole number by three (3) may be added to the number to be elected for a three (3) year term, and to the minimum two-thirds (2/3) of the Board membership that must be Voting Delegates under Section 1 of this Article IV.

The number of Board Members, within the limits prescribed by Section 1 of this Article IV, may be increased or decreased at any Annual Meeting provided that no decrease in number shall be valid to the extent that it would operate to eliminate an incumbent Board Member whose term extends beyond that meeting.

Section 4. Commitment of Active Service

Each Elected and Special Member of the Board of Governors commits to participate actively in support of the Association throughout his or her term as evidenced by reasonable efforts to attend all meetings. When circumstances preclude continuation of such active participation for a foreseeable prolonged portion of his or her term, a Member should submit a request to resign to the Chair, and the Board shall entertain such request favorably and without prejudice. An Elected or Special Member of the Board of Governors who misses two Board of Governors meetings during his or her term of office without the prior approval of the Chair is deemed to have submitted a request to resign to the Chair, and the Board shall entertain such request favorably and without prejudice.

Section 5. Vacancies in Board Membership

If the office of an Elected Member of the Board of Governors shall become vacant through death, resignation, ineligibility of the Elected Member, or otherwise between Annual Meetings of Voting Members, the remaining members of the Board may, at their discretion, elect a member to serve only until the next Annual Meeting, subject to the provisions of Section 2 of this Article IV.

Section 6. Re-election

There shall be no limit upon the number of consecutive terms that may be served by a Member of the Board of Governors otherwise qualified and properly elected.

Section 7. Voting

In addition to the rules applicable to all meetings provided in Article XII, except in the case of amendments to the Bylaws, any right of action, election and

appointment taken by a mail or fax ballot of all Members of the Board of Governors, in which at least a majority of such Governors having the power to vote indicate in writing themselves in agreement, shall constitute a valid action, election or appointment of such Board if reported at the next regular or special meeting of the Board of Governors.

Section 8. Meetings

Meetings of the Board of Governors shall be held two (2) times a year on approximately a semi-annual basis at such time and place as may be designated by the Chair or the Executive Committee, except that one (1) such meeting shall be convened in connection with the Annual Meeting for the purpose of electing officers and members of the Executive Committee and appointing members of such committees contemplated in Article VI, Section 1E as may be deemed necessary. Additional meetings of the Board of Governors may be called by the Chair or Executive Committee. The time, place and purpose of additional meetings of the Board of Governors may be designated by the Chair or Executive Committee.

In addition, emergency meetings of the Board of Governors shall be called by the Secretary (or, in the case of death, absence, incapacity or refusal of the Secretary, by any other officer) on the petition of five (5) or more Elected Members of the Board of Governors, directed to the Secretary, which emergency meeting if requested by said petition shall be held within ten (10) days of the Secretary's receipt of said petition with notice thereof to be made to the members of the Board of Governors by telephone or electronic means at least one day before the emergency meeting.

Meetings of the Board shall be limited to the Governors and closed to all others, except by the express invitation of the Chair with the concurrence of the Board Members present.

- A. **Notice of Meetings** - Notice of meetings of the Board shall be given to each Member in writing (including via fax) by the Secretary at least ten (10) days in advance of the date of the meeting stating the place, time, purpose and authority for the meeting, except as otherwise provided in the case of an emergency meeting, by law or by Article XIV of these Bylaws.
- B. **Waiver of Notice** - The notice required for meetings of the Board of Governors may be waived in writing (including via fax) by that number of Governors necessary to constitute a quorum.

ARTICLE V
Executive Committee

Section 1. Authority and Responsibility

The Executive Committee may act in place and stead of the Board of Governors between meetings on all matters (except those specifically and exclusively reserved to the Board by Article IV, Section 1 of these Bylaws) and shall be responsible for such specific duties as may from time to time be assigned to it by the Board of Governors. Actions of the Executive Committee shall be reported to the Board not later than the next Board meeting.

Section 2. Composition and Nomination

The Executive Committee shall consist of the elected Officers, the two most recent Special Members (who serve on an ex-officio basis), and five (5) additional Members of the Board, four (4) for 1994-95 only. Two (2) of the additional Members of the Board of Governors shall be nominated by the Chair-nominee, and three (3) of the additional Members of the Board of Governors shall be nominated by the Nominating Committee. For 1994-95 only, the Nominating Committee shall nominate only two (2) additional Members of the Board of Governors to the Executive Committee. The Chair of the Association also shall serve as the Chair of the Executive Committee. A majority of the voting Members of the Executive Committee shall be Voting Delegates of REIT Members.

Section 3. Meetings

The Executive Committee shall meet upon the call of the Chair or upon written notice to the Committee signed by any three (3) of its members, stating the time, place and purpose of the meeting. Meetings of the Executive Committee shall be limited to the members thereof and closed to all others, except by the express invitation of the Chair and the concurrence of a majority of those members then present.

Section 4. Vacancies

If the office of a duly elected non-officer member of the Executive Committee becomes vacant through death, resignation, ineligibility, or otherwise between Annual Meetings, the Chair may, in his or her sole discretion, appoint another Member of the Board of Governors to fill such vacancy.