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VOL 5649 PG 2133
OFFICIAL RECORDS

DECLARATION OF CONDOMINIUM
OF
THE BEACHCOMBER, A CONDOMINIUM

THIS CONDOMINIUM IS CREATED UNDER THE PROVISIONS OF AND THIS DECLARATION WAS PREPARED IN ACCORDANCE WITH FLORIDA STATUTES CHAPTER 718, IN THE FORM AND SUBSTANCE OF THAT STATUTE APPEARING IN THE OFFICIAL FLORIDA STATUTES 1982. IN THIS DECLARATION THAT STATUTE SHALL BE SOMETIMES REFERRED TO AS THE "CONDOMINIUM ACT", SOMETIMES BY THE WORD "ACT", AND SOMETIMES BY CITATION TO THE CHAPTER AND SECTION NUMBER, AS FOR EXAMPLE 718.101.

THIS DECLARATION WAS PREPARED BY WILLIAM B. RYAN, JR., ESQUIRE, OF THE FIRM OF SCHNEIDER, DUNAY, RYAN & MARKS, P.A. 2105 PARK AVENUE, SUITE 20, ORANGE PARK, FLORIDA 32073. TELEPHONE (904) 269-1616.

BELOW THIS PARAGRAPH IS STATED THE DATE UPON WHICH THE ABOVE ATTORNEY COMPLETED THE DRAFTING OF THIS DECLARATION, AND, AS WELL, DATES OF REVISION, IF ANY, THE LATTER OF WHICH WILL BE DESIGNATED BY THE WORD REV, SO THAT ANY PERSON REVIEWING THIS DECLARATION IS ADVISED THAT THE LAST OF THE BELOW DESIGNATED DATES IS TO BE THE REFERENCE DATE FOR THIS DECLARATION.

- May 12, 1982 (First Draft)
- June 1, 1982 (First Rev.)
- September 8, 1982 (Second Rev.)
- November 12, 1982 (Third Rev.)
- December 3, 1982 (Fourth Rev.)
- February 7, 1983 (Fifth Rev.)
- March 15, 1983 (Sixth Rev.)

361/2

RETURN TO W.B. Ryan, Jr.
c/o SCHNEIDER, DUNAY, RYAN & MARKS, P.A.
SUITE 20, 2105 PARK AVENUE,
ORANGE PARK, FLORIDA 32073

WILL CHIL

269-1616

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FOR THE BEACHCOMBER

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May THIS DECLARATION OF CONDOMINIUM is made this *10th* day of *May*, 1983, by Necdet Senturk, herein called "Developer", whose address is P.O. Box 1162, Orange Park, Florida 32073.

ARTICLE 1
PURPOSE

Section 1.1 - Purpose.

The purpose of this Declaration is to submit the lands and the improvements to be constructed thereon, all as described in this Declaration, to the condominium form of ownership and use in the manner provided by the Condominium Act.

ARTICLE 2
NAME AND ADDRESS OF CONDOMINIUM

Section 2.1 - Name and Address of Condominium.

The name by which this condominium is to be identified is The Beachcomber, a condominium. The address of the condominium is 413 First Street, Jacksonville Beach, Florida 32250.

ARTICLE 3
ASSOCIATION

Section 3.1 - Association.

The Florida not for profit corporation formed by the Developer as the association for the owners of the condominium is The Beachcomber Condominium Association, Inc., which shall be referred to in this Declaration as the "Association".

ARTICLE 4
DEFINITIONS

Section 4.1 - Definitions.

Except as otherwise expressly provided for in this Declaration, the definitions for certain terms in this Declaration shall be the same as those provided in the Condominium Act including but not limited to 718.103.

ARTICLE 5
THE LAND

Section 5.1 - The Land (Not Homestead Of Developer).

The land owned in fee simple by the Developer, which by this Declaration is being submitted to the condominium form of ownership, lies in Duval County, Florida, and is more particularly described as Lot 3, Block 41, Pablo Beach, according to the plat thereof recorded in Plat Book 3, page 28 of the current public records of Duval County, Florida, and a Part of Lot 2, Block 41, as described on page 2A, which land is not the homestead of Developer.

ARTICLE 6
DATE OF CREATION OF CONDOMINIUM

Section 6.1 - Date Of Creation Of Condominium.

This condominium will be created as of the date that this Declaration is recorded in the current public records of Duval County, Florida. This Declaration has been executed and acknowledged by the Developer with the requirements for a deed. There are no other persons having record fee simple title to the land.

ARTICLE 7
JOINDER OF MORTGAGEES

Section 7.1 - Joinder of Mortgagees.

Any persons having any record interest in any mortgage encumbering the land at the time of the recordation of this Declaration will join in the execution and acknowledgment of this Declaration in the same manner as the Developer, or, if so stated at the end of this Declaration, will, by separate instrument, executed and acknowledged with the requirements for a deed, consent to and subordinate to this Declaration as permitted by 718.104(3).

ARTICLE 8
IDENTIFICATION OF UNITS

Section 8.1 - Identification of Units.

There will be twelve (12) units in this condominium. They will be identified, based upon their position on each floor, by the following numbers: 201, 202, 203, 204; 301, 302, 303, 304; 401, 402, 403, 404. No unit will bear the same number as another unit.

WJF

Donn W. Boatwright

Land Surveyor
48 Penman Road South
Jacksonville Beach, Florida 32250
(904) 241-8550

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March 16, 1983

LEGAL DESCRIPTION

FOR: BEACHCOMBER
CONDOMINIUM LANDS

A PART OF:

LOT 3 AND A PART OF LOT 2, BLOCK 41, PABLO BEACH SOUTH AS
SHOWN ON PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGE 28 OF THE
CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA AND BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF BEGINNING
COMMENCE AT THE SOUTHWEST CORNER OF SAID LOT 3; THENCE NORTH
9°54'30" WEST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF FIRST STREET
(A 50-FOOT RIGHT-OF-WAY AS NOW ESTABLISHED), A DISTANCE OF 65.50 FEET
TO THE NORTHERLY LINE OF SAID LOT 3; THENCE NORTH 80°05'30" EAST ALONG
SAID NORTH LINE OF LOT 3, A DISTANCE OF 121.00 FEET; THENCE NORTH 9°
54'30" WEST, A DISTANCE OF 27.10 FEET; THENCE NORTH 80°05'30" EAST A
DISTANCE OF 18.00 FEET; THENCE SOUTH 9°54'30" EAST, A DISTANCE OF 45.84
FEET; THENCE SOUTH 69°54'30" EAST, A DISTANCE OF 8.31 FEET; THENCE NORTH
9°54'30" EAST, A DISTANCE OF 24.00 FEET; THENCE NORTH 9°54'30" WEST, A
DISTANCE OF 50.00 FEET; THENCE NORTH 80°05'30" EAST, A DISTANCE OF 32.00
FEET TO THE EAST FACE OF A CONCRETE BULKHEAD; THENCE SOUTH ALONG SAID
EAST FACE OF BULKHEAD, A DISTANCE OF 47.60 FEET MORE OR LESS TO THE
SOUTH LINE OF SAID LOT 3; THENCE SOUTH 80°05'30" WEST, ALONG SAID SOUTH
LINE OF LOT 3, A DISTANCE OF 201.80 FEET TO THE POINT OF BEGINNING.

ARTICLE 9

SURVEY OF LAND AND GRAPHIC DESCRIPTION
OF IMPROVEMENTS FOR CONDOMINIUM

Section 9.1 - Survey And Graphic Description Of
Improvements.

Attached to this Declaration and incorporated by this reference as Exhibit A is Surveyor's Certificate, graphic description of improvements constituting this condominium, and survey of this condominium, all as required by Florida Statutes §718.104.

Section 9.2 - Swimming Pool And Other Lands Not In
Condominium.

In Exhibit A there is graphically shown lands containing an existing swimming pool, and there is also shown other lands not in condominium that contain existing motel improvements. Neither the lands containing the swimming pool nor the other lands not in condominium are being submitted to the condominium ownership by this Declaration. However, the Developer will by separate instrument convey the swimming pool, both the lands and the improvements thereof, to the Association and shall also reserve certain rights and accept certain duties for himself and his successors in interest in connection with the use and enjoyment of the swimming pool for the other lands not in condominium, all documentation for which shall be made a matter of public record in the current public records of Duval County, Florida.

Section 9.3 - Covenant To Remove Existing Motel Improve-
ments.

Notwithstanding the fact that the motel improvements located on other lands not in condominium as shown in Exhibit A are made subject to condominium ownership by this Declaration, the Developer hereby covenants with all purchasers of units in this condominium to remove the existing motel improvements not later than the time at which the presently existing construction loan for this condominium in favor of the Southeast Bank is fully retired by the Developer.

ARTICLE 10

EASEMENTS

Section 10.1 - Easements.

Each of the following easements is reserved through the condominium property and in a covenant running with the land of the condominium, and notwithstanding any of the other provisions of this

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Declaration, may not be amended or revoked, and shall survive the termination of the condominium and the exclusion of any of the lands of the condominium from the condominium, except for termination before title to any part of the condominium passes from Developer.

Section 10.2 - Utilities And Others.

Easements are reserved as may be required for the entrance upon, construction, maintenance and operation of utility services to adequately serve the condominium including, but not limited to, the installation of cable television systems, mains and such other equipment as may be required throughout the condominium project, it being expressly agreed that Developer or the utility company making the entry shall restore the property as nearly as practicable to the condition which existed prior to commencement of construction of such utility; provided, however, easements herein reserved which necessitate entry through a unit shall only be according to the plans and specifications for the building contained in the unit or as the building is actually constructed, unless approved in writing by the unit owner and the unit owner's mortgagee. In addition, easements are reserved to the Developer and the Association for such further utility easements over and across the condominium property as may be required from time to time to service the condominium property. Provided, however, such further utility easements which shall be identified and located as the occasion shall arise shall not be over or through any part of the condominium occupied by a condominium building. The Association shall have the right to grant permits, licenses and easements over the common areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance and operation of the condominium.

Section 10.3 - Encroachments.

In the event that, by virtue of construction, reconstruction, repair, shifting, settlement or movement of any portion of the improvements, any unit shall encroach upon any of the common elements or upon any other unit for any reason other than the intentional or negligent act of the unit owner, or in the event any common element shall encroach upon any unit, then an easement shall exist to the extent of that encroachment so long as the encroachment shall exist.

Section 10.4 - Pedestrian And Vehicular Traffic.

A perpetual non-exclusive easement for ingress and egress shall exist for pedestrian traffic over, through and across sidewalks, paths, walks, lanes and other portions of the common elements as may be

from time to time intended and designated for such purposes and use; and for the vehicular traffic over, through and across such portions of the common elements as may be from time to time paved and intended for such purposes. These easements shall be for the use and benefit of the unit owners and those claiming by, through or under them; provided, however, nothing in this section shall be construed to give or create in any person the right to park upon any portion of the condominium property except to the extent that space may be specifically designated and assigned for parking purposes. These easements of ingress and egress for pedestrian and vehicular traffic shall be appurtenant to each unit.

Section 10.5 - Easements In Favor Of Developer.

Until such time as the Developer has sold all twelve (12) units, easements including but not limited to those for ingress and egress, are hereby reserved and shall exist through and over the condominium property as may be required by the Developer for the sale of the unsold units. Neither the unit owners nor the Association, nor the use of the condominium property shall interfere in any way with such sales.

ARTICLE 11
IMPROVEMENTS

Section 11.1 - Construction Of Improvements.

The improvements have been constructed by a general contractor employed by the Developer substantially in conformity with the plans and specifications prepared by Gerard Vermey, architect, dated the 5th day of April, 1982, consisting of 55 pages, and the graphic description contained in Exhibit A to this Declaration.

Section 11.2 - Condominium Building.

The condominium will consist of one 4 story building. The condominium building will contain the twelve (12) condominium units. The number, location and size of each unit is graphically shown in Exhibit A.

Section 11.3 - Other Improvements.

The condominium includes landscaping and vehicular parking areas described in the above designated plans and specifications and graphically shown in Exhibit A.

Section 11.4 - Unit Boundaries.

For the purposes of this section, the term unit includes that part of the condominium building containing the unit that lies within the boundaries of the unit. The boundaries of each unit are as follows:

- (a) Upper And Lower Boundaries. The upper and lower boundaries of each unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:
- (i) Upper Boundary. The horizontal plane of the highest point on the undecorated finished ceiling.
 - (ii) Lower Boundary. The horizontal plane of the lowest point on the undecorated finished floor.
- (b) Perimetrical Boundaries. The perimetrical boundaries of each unit shall be the vertical planes of the undecorated finished interior of the walls bounding the unit extended to intersections with each other and with the Upper and Lower boundaries.

Section 11.5 - Limited Common Elements.

Now construction of the improvements is completed, and Developer has provided parking areas sufficient for two vehicles per unit. The Developer has constructed twelve (12) covered parking spaces that are distributed on the basis of one per unit. These covered parking spaces are underneath the building on the ground floor, will be one of the limited common elements, and they are identified on Exhibit A, attached to this Declaration. CONTINUED ON PAGE 6A.

Section 11.6 - Common Elements.

The common elements include the land and all parts of the condominium not within the unit as defined in this article. As provided in the foregoing section of this article, parts of the common elements will be reserved for the use of a certain condominium unit and will be known as limited, common elements.

ARTICLE 12
APPURTENANCES

Section 12.1 - Common Elements.

Each unit shall have a one-twelfth (1/12th) undivided share in the land and other common elements appurtenant to it.

Section 12.2 - Association.

Each unit owner shall hold membership in the Association and an interest in the funds and assets held by the Association. Membership and voting rights of each owner in the Association shall be acquired pursuant to the provisions of the Articles of Incorporation and By-laws of the Association attached hereto and incorporated by this reference as Exhibits B and C, respectively. Prior to the recordation of this Declaration, the Developer will file the Articles of Incorporation with the Secretary of State for the State of Florida, and there will be attached hereto just before Exhibit B a copy of the Certificate

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The following language constitutes additional provisions for Section 11.5 appearing on foregoing page 6:

As shown in Exhibit A to this Declaration, each unit has attached to it a balcony. That portion of the balcony which is not contained within the boundaries of a unit as defined in Section 11.4 of this article shall be a limited common element whose use is hereby restricted to the owners, tenants, and invitees of the unit which each respective balcony serves. See additional provisions of this Declaration for rights and duties in connection with maintenance, alterations and improvements of the balconies. This definition of the balconies as a limited common element was added to this Declaration after this Declaration had been substantially drafted. Should there be any provisions in this Declaration which expressly or implicitly restricts the definition of limited common elements to the covered parking spaces only then by this provision those other provisions, if there be any, are hereby amended to include the balconies as limited common elements as so defined on this page.

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(Continued on page 7)

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of incorporation issued by the Florida Secretary of State.

Section 12.3 - Automobile Parking Space.

Developer has constructed twenty-four (24) automobile parking spaces. Twelve (12) of those are designated as limited common elements by this Declaration and Exhibit A so that each covered space is specified for limited use by a particular unit. That reserved use of the common elements for a limited common element shall be appurtenant to each specified unit. The twelve (12) uncovered spaces shall not be designated for use by any particular unit, will remain part of the common elements, and, therefore, will be a part of the common elements appurtenant to all units. However, the maintenance and use of the covered and the uncovered parking spaces shall be subject to the rules provided in other sections of this Declaration.

Section 12.4 - Liability For Common Expenses And Share Of Common Surplus.

Each unit owner shall share on the basis of one-twelfth (1/12th) per unit the common expense and common surplus. However, this does not include the right to withdraw or to require payment of distribution of common expense and common surplus. As well, the Developer shall not be obligated to commence paying any common expense assessments to the Association with respect to units owned by the Developer for so long as Developer shall guarantee the level of assessment as more particularly set forth in Article 14, below.

ARTICLE 13
MAINTENANCE, ALTERATIONS AND IMPROVEMENTS
(Other Than After Casualty)

Responsibility for the condominium property and restrictions upon alteration and improvement of the condominium property shall be as established in the following sections of this article.

Section 13.1 - Common Elements.

- (a) By The Association. The maintenance and operation of the common elements shall be the responsibility of the Association, and the expense associated with that maintenance and operation shall be designated as a common expense, other than those expenses specifically provided to be paid by the individual unit owners in other sections of this Declaration.

- (b) Alteration And Improvement. After the completion of the improvements including the common elements contemplated by this Declaration there shall be no alteration or further improvement of the property constituting the common elements without prior approval in writing by the owners of not less than seventy-five percent (75%) of the common elements. Any alteration or improvement shall not interfere with the rights of any unit owner without their consent. The cost of such work shall not be assessed against any institution or first mortgagee that acquires its title as a result of owning a mortgage upon the unit it acquires, unless such institution shall approve the alteration or improvement, and this shall apply whether the title is acquired by deed in lieu of foreclosure or by foreclosure proceedings. The share of any cost not so assessed shall be assessed to the other unit owners in the proportion that their shares in the common elements bear to each other. There shall be no change in the shares and rights of unit owners in the common elements altered or further improved, whether or not the unit owner contributes to the cost of such alteration or improvements. This paragraph shall have no application to the rights vested in the Developer pursuant to the provisions of Article 10, above. This provision also applies to limited common elements.

Section 13.2 - Limited Common Elements.

The Association shall also be responsible for the maintenance of the limited common elements, the covered parking spaces appurtenant to each unit. However, the unit owner shall be responsible for day-to-day maintenance and cleaning of the limited common element area, and, further, the maintenance, repair and/or replacement of the limited common elements necessitated by the unit owner making use of the area in an abusive manner or in a manner other than that for which the areas intended shall be the responsibility and expense of the unit owner of the Association. If any unit owner fails to carry out or neglects the responsibilities imposed in this article, the Association may fulfill the same and charge the unit owner with the charge being a lien on the owner's unit in the manner provided in Article 14, below.

CONTINUED ON PAGE 8A.

Section 13.3 - Units.

- (a) By Association. The Association shall maintain, repair and replace as a common expense the following:
- (i) All portions of a unit, except interior surfaces, contributing to the support of the condominium building including, but not limited to load-bearing columns and load-bearing walls.
 - (ii) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services

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The following language constitutes additional provisions for Section 13.2 appearing on foregoing page 8:

As regards the balconies that also constitute limited common elements, these rights and duties shall apply. Each exterior wall will have a light on it for the balcony. The maintenance of the light fixture, the wiring to the light fixture, and the switch for the light fixture, shall be maintained by the Association as a common expense, but the particular unit owners shall supply the light bulbs. The floor of each balcony remains uncovered as part of the construction by the Developer. Any covering shall be at the expense of the owners of each particular unit. No covering shall be installed unless it is previously approved by the Association, which approval shall not be unreasonably withheld, as to aesthetic quality, economic value, and safety value among other such considerations may be reasonably connected to that issue. Except as expressly provided by the foregoing language, the Association shall be responsible for the maintenance of the limited common elements, and the balconies appurtenant to each unit. However, the unit owners shall be responsible for day to day maintenance and cleaning of the balcony, and, further, the maintenance, repair and/or replacement of the balcony necessitated by the unit owner making use of the balcony in an abusive manner or in a manner other than that for which the balcony is intended shall be the responsibility and expense of the unit owner and not that of the Association. If any unit owner fails to carry out or neglects the responsibilities imposed in this section or in this article entirely, the Association may fulfill the same and charge the unit owner with the charge being a lien on the owner's unit in the manner provided in Article 14 of this Declaration.

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contained in the foregoing portions of a unit required to be maintained by the Association, and, additionally, all such facilities contained within a unit where such facilities service part or parts of the condominium other than the unit within which they are contained. This provision excludes from its coverage any air conditioning compressor facility, and, also, any other facility for the furnishing of utility services now or hereafter installed outside any of the buildings and intended for the purpose of furnishing such utility services only to an individual unit, which facility must be previously approved in writing by the Association and must be maintained by and at the expense of the unit owner.

(iii) All incidental damage caused to a unit by reason of the maintenance, repair and/or replacement which is the responsibility of the Association, with the Association having the duty to properly repair such damage.

(b) By The Unit Owner. The responsibility of the unit owner shall include, but shall not be limited to:

(i) To maintain, repair and replace at their sole and personal expense, all doors, windows, glass, screens, electric panels, electric wiring, electric outlets and fixtures, air conditioners, including air conditioning compressors and other related outside facilities referred to in the foregoing section, heaters, hot water heaters, refrigerators, dishwashers, other appliances, drains, plumbing fixtures and connections, interior surfaces of all walls, floors and ceilings, floor and wall coverings, intercoms, and all other portions of their unit, except the portions specifically designated in this article to be maintained by the Association.

(ii) To promptly report to the Association any defect or need for repairs for which the Association is responsible.

Section 11.4 - Alteration and Improvement.

A unit owner shall not enclose, paint, otherwise decorate, alter, improve or otherwise change the appearance of any portion of the exterior of the condominium building or any other portion of the common elements and limited common elements. No unit owner shall alter or improve any portion of the condominium property that is designated in this article to be maintained by the Association. Subject to the foregoing two sentences and the other sections within this

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article, all of which shall have priority over the balance of this article where there is a conflict, a unit owner shall be entitled to make alterations or improvements to their unit, at their sole and personal cost, as they may deem appropriate, provided that all work shall be done without disturbing the rights of other unit owners and further provided that a unit owner shall make no changes or alterations to any interior boundary wall, exterior wall, balcony or patio, screening, exterior door, windows, structural or load-bearing member, electrical service or plumbing service, without first obtaining approval in writing of owners of all other units in such building and the approval of the board of directors of the Association. All permitted alterations and improvements by a unit owner must be in compliance with all existing building codes. Provided, however, no alteration or improvement may be made without the written approval of the board of directors or the Association if such alteration or improvement may or would cause an increase in the cost of the insurance carried by the Association. The burden of proof as to whether an alteration or improvement is permitted to be made by a unit owner under this article shall fall upon the unit owner, and if a unit owner is in doubt as to whether or not an alteration or improvement would be permitted under the terms of this article, they shall be entitled to submit the question to and to have an advisory opinion made by the board of directors, which opinion must be rendered within thirty (30) days following the date of delivery of the request by the unit owner to the board of directors.

Section 13.5 - See Article 18 For Rules For Reconstruction Or Repair After Casualty.

ARTICLE 14
ASSESSMENTS:

LIABILITY, LIEN AND PRIORITY, INTEREST, COLLECTION

Section 14.1 - Assessments.

The making and collection of assessments against unit owners for common expenses and for reserves as may from time to time be established by the Association shall be pursuant to the By-laws attached as Exhibit C, and subject to the following sections.

Section 14.2 - Liability.

Appurtenant to each unit is the liability for one-twelfth (1/12th) of the common expenses of the Association. A unit owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all assessments coming due while he is the unit owner. In a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor for his share of the common expenses up to the time of the conveyance, without prejudice to any right

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the grantee may have to recover from the grantor the amounts paid by the grantee. Where there are two or more owners liable under this article, the liability shall be joint and several. The liability for assessments may not be avoided by waiver of the use or enjoyment of any common elements or by abandonment of the unit for which the assessments are made. Assessments and installments on them not paid when due bear interest at the highest rate then permitted under Florida Usury Law for contract rate of interest, or, in the absence of such a law, at the rate of eighteen percent (18%) per annum, or at such higher legal rate as may be imposed upon the Association by any provider of products or services to the Association for which common expenses are imposed; provided, however, no interest shall be due and payable if any past due assessments are paid in full within ten (10) days after they become past due. All payments on account shall be applied first to accrued interest and the remainder to reduction of the assessment amount first due to the Association. Where assessments are paid by installments, and where an installment remains unpaid for thirty (30) days after it becomes due, the board of directors shall have the right to accelerate and to declare to then be due and payable in full the entire balance of the assessment to the same extent as if the entire accelerated amount was originally due in a lump sum. In actions to collect assessments, the Association shall be entitled to recover all cost and a reasonable attorney's fee, including all levels of appellate litigation. The Developer is excused in part from payment of assessments as provided in another section of this article.

Section 14.3 - Lien.

The Association has a lien on each condominium parcel for any unpaid assessments with interest, cost and attorney's fees as provided above. The lien is effective from and after recording a claim of lien in the current public records of Duval County, Florida. A claim of lien must state the description of the condominium parcel, the name of the record owner, the amount due, and the due dates. The lien is in effect until all sums secured by it have been fully paid or until barred by Florida Statutes Chapter 95 (1982). The claim of lien shall include only assessments which are due when the claim is recorded. The claim of lien shall be signed and acknowledged by an officer or agent of the Association. Upon payment, the person making the payment is entitled to a satisfaction of the lien. By recording a notice of contest of lien in substantially the form provided in 718.116, a unit owner or his agent or attorney may require the Association to enforce a recorded claim of lien against his condominium parcel. The Clerk of the Circuit Court shall mail a copy of the recorded notice of contest to the Association at the address shown in the claim lien or most recent amendment to it, shall certify to the service on the face of the notice, and shall record the notice. Service is complete upon mailing. After service, the Association has

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ninety (90) days in which to file an action to enforce the lien, and if the action is not filed within the ninety (90) day period, the lien is void, but failure to file the action to enforce the lien shall not operate to discharge the underlying indebtedness in favor of the Association. The Association may bring an action in its name to foreclose a lien for assessments in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without any waiving any claim of lien, it being the intention of this Declaration that those remedies be cumulative. No foreclosure judgment may be entered until at least thirty (30) days after the Association gives written notice to the unit owner, at the address on the rolls of the Association, or, in absence thereof, at the address on the rolls of the Tax Collector for Duval County, Florida, of its intention to foreclose its lien to collect the unpaid assessments. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid assessment, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the Association shall not recover attorney's fees or cost. The notice must be given by delivery of a copy of it to the unit owner or by certified mail, return receipt requested, addressed to the addresses specified above, to the unit owner. If, after diligent search and inquiry, the Association cannot find the unit owner or mailing address at which the unit owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and cost as permitted by law. Provided, however, the foregoing notice requirements are satisfied if the unit owner records a notice of contest of lien as provided above. If the unit owner remains in possession of the unit and the claim of lien is foreclosed, the court, in its discretion, may require the unit owner to pay a reasonable rental for the unit, and the Association is entitled to the appointment of a receiver to collect the rent. The Association shall be entitled to be a purchaser at the foreclosure sale, and hereafter, to hold, lease, mortgage, or convey the condominium parcel so acquired as fully as any other unit owner would be under the terms of this Declaration.

Section 14.4 - Lien Priority And Mortgages.

When the mortgagee of any mortgage of record regardless of priority, or other purchaser, of a condominium unit obtains title to the condominium parcel as a result of foreclosure of the mortgage, or as a result of a deed in lieu of foreclosure, such acquirer of title and his successors and assigns shall not be liable for the share of common expenses or assessments by the Association pertaining to the condominium parcel or chargeable to the former unit owner of the parcel which became due prior to acquisition of title as a result of the foreclosure or deed in lieu thereof, unless the share is secured by a claim of lien for assessments that is recorded prior to the recording of the foreclosed mortgage. The unpaid share of

common expenses or assessments are common expenses collectible from all of the unit owners, including such acquirer and his successors and assigns. Provided, however, the foregoing shall not apply to a mortgagee or other purchaser, so acquiring title through a purchase money mortgage given to a seller who was a unit owner to the extent of any unpaid share of common expenses or assessments accruing before the mortgage was made so that any subsequent claim of lien for such past due assessments shall take priority over such purchase money mortgage even though the claim of lien is recorded after the purchase money mortgage. No mortgagee acquiring title to a condominium parcel as a result of foreclosure or deed in lieu of foreclosure may be excused from the payment of any of the common expenses coming due during the period of ownership.

Section 14.5 - Certificate As To Assessments.

Any unit owner has the right to require from the Association a certificate showing the amount of unpaid assessments against him with respect to his condominium parcel. The holder of a mortgage or other lien of record has the same right as to any condominium parcel upon which he has a lien. Any person other than the owner who relies upon such certificate shall be protected thereby.

Section 14.6 - Exclusive Authority, Standing And Jurisdiction.

The Association has the exclusive authority to make and collect assessments. The Association has the exclusive standing to enforce assessments whether by creation and foreclosure of the claim of lien or collection action. It is agreed that the obligations for assessments under this article are promises to pay a debt in Duval County, Florida, so that the jurisdiction for all actions for collection and enforcement of assessments, including the enforcement of the claim of lien, shall be in Duval County, Florida, in the appropriate court in that county having jurisdiction for the particular type of action.

Section 14.7 - When Assessments Begin And Excuses From Payment For Developer And Other Owners.

Assessments against each and every unit shall commence at the point in time that this Declaration is recorded in the current public records of Duval County, Florida. No unit owner may be excused from the payment of his share of the common expenses of a condominium, unless all unit owners are likewise proportionately excused from payment, except that the Developer shall be excused from payment in the following manner:

The Developer shall be excused from the payment of his share of the common expenses in respect to the units which he owns for a period of 120 days following the date of recording of Declaration and Developer hereby guarantees to the Association that the assessment for common expenses imposed upon the unit owners will not during that period increase above \$55.00 per month per unit, and that Developer will pay any amount of common expenses incurred during the 120 day period not produced by the assessments at the guaranteed

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* For the purposes of this provision, 120 days means
no later than the first day of the fourth calendar month fol-
lowing the month in which the recordation of this Declaration
occurs.

level of \$55.00 receivable from other unit owners. The Developer may be further excused from his share of the common expenses which would have been assessed against unsold units for such additional time as is necessary to achieve sale of all of the units, but only upon prior written agreement with the majority of the then unit owners, other than himself, which agreement must provide that the assessment for common expenses of the condominium imposed upon the unit owners will not increase over a stated dollar amount during that period of time, and a promise by the Developer to pay any amount of common expenses incurred during that period and not produced by the assessments at the guaranteed level receivable from other unit owners, and, further, in such event and upon such agreement, the Developer shall provide financial assurance for his guarantee by way of a cash deposit, letter of credit, assignment of certificate of deposit, or assignment of other assets readily convertible to cash in a reasonable amount may be determined by the agreement, subject, however, to the reasonable concurrence by institutional mortgagees then holding mortgages against either sold or unsold units as to the amount and form and substance of the financial assurance.

ARTICLE 15
ASSOCIATION

The operation of this condominium shall be by The Beachcomber Condominium Association, Inc., a corporation not for profit organized under the laws of the State of Florida, which shall fulfill its functions pursuant to the following sections.

Section 15.1 - Articles of Incorporation.

Attached hereto and incorporated by this reference as Exhibit B is a copy of the Articles of Incorporation for the Association, which has been supplemented prior to the time of recording of this Declaration by attaching a copy of the certificate of incorporation from the Florida Secretary of State. Article 4 of the Articles of Incorporation sets out membership of unit owners in the Association.

Section 15.2 - By-Laws.

Attached hereto and incorporated by this reference as Exhibit C is a copy of the By-laws of the Association. Article 4 of the By-laws sets out membership and voting right of unit owners in the Association.

Section 15.3 - Limitation Upon Liability Of Association.

Notwithstanding the duty of the Association to maintain, repair or restore parts of the condominium property as established in this Declaration, the Association shall not be liable for injury or damage caused by any latent condition of the property to be maintained, repaired or restored by the Association, or caused by natural elements or by any other owners or other persons.

Section 15.4 - Management.

Prior to the passage of control of the Association from the Developer to the unit owners, the Association may not enter into management agreements for management of the condominium unless such agreements shall expressly provide a right of termination, without cause, exercisable without penalty at any time after transfer of control, upon not more than ninety (90) days notice to the other party to the agreement. After passage of control of the Association from the Developer to the unit owners, the Association may contract, in accordance with the Articles of Incorporation and By-laws, for management of the condominium upon terms and conditions deemed appropriate from time to time. The Association, in accordance with the foregoing provisions, shall have the exclusive right of employing management for rentals, but in the absence of such management agreement, the unit owners shall at their sole discretion employ managers for rentals of their respective units. In all events, this condominium is not being marketed by Developer with a rental management contract as an essential element so that in all events it is not intended to be a sale of a security as defined by applicable federal or state laws.

Section 15.5 - Notices To Be Made By Association To First Mortgagees.

All mortgagees holding mortgages against any unit shall be entitled to written notification from the Association of any default in the performance of any obligation of this Declaration, the Article of Incorporation, and the By-laws and any Amendments thereto, when the default is not cured within thirty (30) days, by any unit owner of the unit encumbered by the mortgage. This right shall also inure to all insurers or guarantors of any mortgage, as for example, the VA or FHA. The Association shall not be required to make that notice, except upon the written request of the mortgagee, insurer or guarantor, which request shall state the name and address of the mortgagee, insurer or guarantor, and the unit number. In the

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following events, the Association shall cause to be performed by a title insurance company or abstract company licensed to do business in Duval County, Florida, a search of the current public records of Duval County, Florida, dated not more than ten (10) days before the date of the following notices, in order to identify mortgagees of record, and shall give to the mortgagees of record at the address shown in the mortgage, timely notice of any item in this Declaration requiring mortgagee approval, including:

- (a) Any proposed amendment to the condominium documents purporting to effect a change in (i) the boundaries of any unit or the exclusive easement rights appertaining thereto, (ii) the interest of the general or limited, common elements appertaining to any unit, or the liability for common expense appertaining to any unit, (iii) the number of votes in the Association appertaining to any unit, (iv) the purposes to which any unit or the condominium elements are restricted, or (v) those provisions relating to matters described in Articles 16, 17 and 18, below;
- (b) Any proposed termination of the condominium;
- (c) Any condemnation loss or any casualty loss which affects a material portion of the condominium or which affects any unit on which there is a first mortgage of record;
- (d) Any delinquency in payment of assessments or charges owed by an owner of the units subject to the mortgage where such delinquency has continued for a period of sixty (60) days, but nothing in this provision shall be construed to extend the times or limit the remedies provided to the Association for enforcement of assessments;
- (e) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

Section 15.6 - Books And Records.

The holders of first mortgages shall have the right to examine the books and records of the Association during normal business hours or under other reasonable circumstances and to require annual audited, uncertified financial statements of the Association within ninety (90) days following the end of the fiscal year of the Association. Such first mortgage holders shall also be entitled to, upon request, written notice of all Association meetings and shall be permitted to designate a representative to attend all such meetings. The Association shall, without charge and within a reasonable time, make available to unit owners, prospective purchasers of a unit, lenders and the holders, insurers and guarantors of first mortgages, current copies of this Declaration, the Articles of Incorporation and By-laws of the Association, and other rules governing the condominium.

and other books, records and financial statements of the Association, including the last audited, uncertified financial statement of the Association, but the foregoing shall be provided to prospective purchasers only if they provide evidence that they have become subject to a written agreement to purchase the unit conditioned upon their right of receipt and approval of such documentation.

Section 15.7 - Restraint Upon Assignment Of Shares And Assets.

The share of a unit owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the unit.

ARTICLE 16
INSURANCE

The Association shall not be required to procure any title insurance for the condominium, which insurance shall be procured by owners, purchasers, or mortgagees, as they may agree between themselves. Hazard, casualty and other liability insurance for the condominium property and the property of the unit owners shall be controlled by the following sections.

Section 16.1 - Casualty Coverage.

All buildings and improvements upon the land and all personal property included in the common elements and limited common elements shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation cost. The authority to purchase this insurance shall be exclusively vested in the Association. The initial determination of replacement value and the initial amount of casualty coverage shall be determined by the board of directors of the Association, and each year thereafter the board shall review and determine the replacement value and any resulting increases in insurance necessitated by their determination. If obtainable, the policy of insurance shall provide that it may not be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association and to each mortgagee listed as a scheduled holder of a mortgage. The policy must provide for recognition of any insurance trustee agreement, and must include an "agreed amount endorsement" and "inflation guard endorsement", if available. Because no single type of first mortgage financing for the acquisition of units from the Developer is intended to be employed, it is not possible for the board of directors to select any one particular minimum standard for casualty insurance customarily imposed by institutions making, guaranteeing, insuring, or purchasing condominium first mortgages. However, the board of directors shall, to the extent practicable, procure and maintain casualty coverage with companies and in forms of policy which the good faith research of the

board of directors indicates would be in form and substance generally acceptable to most institutional first mortgage lenders in Duval County, Florida. Casualty coverage shall afford protection against the following hazards:

- (a) Loss or damage by fire and other hazards covered by standard extended coverage endorsement;
- (b) Such other risk as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land, including, but not limited to, vandalism, malicious mischief, and perils covered by the standard "all-risk" endorsement, if that endorsement is available.
- (c) If appropriate and possible, the policy shall waive insurer's right to:
 - (i) Subrogation against the Association and against the unit owners individually and as a group;
 - (ii) The pro-rata clause that reserves to the insurers the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; and
 - (iii) Avoid liability for a loss that is caused by an act or neglect of the board of directors of the Association, or by any member of the board of directors of the Association, or by one or more unit owners.

Section 16.2 - Public Liability Coverage.

Comprehensive general liability insurance shall be procured by the Association in such amounts and such coverage as may be determined by the Board of Directors, covering all of the common elements; provided, however, such coverage shall be for at least one million dollars (\$1,000,000.00) for bodily injury, including deaths of persons, and property damage, arising out of a single occurrence. The policy or policies shall also contain a cross liability endorsement to cover liability of unit owners as a group to a unit owner. Coverage shall include, without limitation, legal liability of the insureds for bodily injury and death of persons in connection with the operation, maintenance or use of the common elements, and legal liability arising out of lawsuits related to employment contracts of the Association. If possible, the policies

should provide that they may not be cancelled or substantially modified without at least ten (10) days' notice to the Association and each scheduled mortgagee, if any.

Section 16.3 - Workmen's Compensation Coverage.

The Association shall provide workmen's compensation coverage only where necessary to meet requirements of law.

Section 16.4 - Fidelity Bonds.

The Association shall procure blanket fidelity bonds for all officers, directors, trustees and employees of the Association and any other persons handling or responsible for funds of or administered by the Association; as for example, where the Association delegates some or all of the responsibility for the handling of funds to a management agent, then the fidelity bonds shall also cover the officers, employees and agents to whom those responsibilities have been delegated. The total amount of fidelity bond coverage required by this provision shall be based upon the best business judgment of the board of directors of the Association, and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the owner's Association or any management agent, as the case may be, at any given time during the term of the bond, but in no event shall the aggregate amount of such bonds be less than the sum equal to three (3) months' aggregate assessments on all units plus reserve funds. The fidelity bonds required by this section must meet the following requirements:

- (a) Fidelity bonds shall name the Association as an obligee;
- (b) The bonds shall contain waivers by the insurers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions;
- (c) The bonds shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days' prior written notice to the Association.

Section 16.5 - Flood Insurance Coverage.

The Association shall procure flood insurance coverage in such amounts deemed appropriate by the board of directors, but not less than the lesser of the following: (i) the maximum coverage available under the National Flood Insurance Program for all condominium buildings and other insurable condominium property lying within an area designated by the Secretary of Housing and Urban Deve-

lopment as having special flood hazard; or (ii) 100% of current "replacement cost" of all such buildings and other insurable property within a special flood hazard area.

Section 16.6 - Other Coverage.

The Association shall procure such other coverage as may be required by applicable law, but in the absence of such mandate, the Association may procure such other types of insurance coverage as the board of directors may deem advisable.

Section 16.7 - Policy Provisions To Be Avoided.

Regarding mandatory or elected policies to be procured by the Association in accordance with the foregoing sections, where at all possible, the Association shall avoid procuring policies that contain any of the following provisions: (i) under the terms of the insurance carrier's charter, by-laws, or policy, contributions or assessments may be made against the Association, the unit owners, their mortgagees, or investors to mortgagees; or (ii) by the terms of the carrier's charter, by-laws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders, or members; or (iii) the policy includes any limiting clauses, other than insurance conditions, which could prevent the Association, the unit owners, the insurance trustee, the mortgagees, or the investors to the mortgagees, as their interest may appear, from collecting insurance proceeds; or (iv) policies by their terms may be cancelled or substantially modified with less than ten (10) days prior written notice to the Association, or the insurance trustee, and the scheduled mortgagees.

Section 16.8 - Mortgage Clause.

The Association shall have no duty to add mortgagees under the policies required to be maintained or elected to be maintained by the Association in accordance with the foregoing sections, unless the Association is so requested by a unit owner or its mortgagee. Upon such request, any mortgagee shall be scheduled in priority of interest as represented by the unit owner, and, in all events, any policy shall, if at all obtainable, contain the standard mortgage clause, or equivalent endorsement, without contribution, which is commonly accepted by private institutional mortgage investors in Duval County, Florida, and where it is made known that a mortgagee is a servicer for an investor such as FNMA, and if the servicer is named as mortgagee in the mortgage clause, the servicer's name shall be followed by the phrase "its successors and assigns".

Section 16.9 - Premiums For Coverage Required To Be Maintained By The Association.

Premiums for insurance coverage required by the foregoing sections to be maintained by the Association, and any other coverage elected by the Association in accordance with the foregoing sections, shall be a common expense levied against and collected from the units and their owners as with any other common expense. All such premiums shall be paid by the Association; provided, however, any increases in

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any premiums caused by any unit owner or their invitee misusing a unit, the common elements or the limited common elements, or caused by any unit owner abandoning a unit, shall be assessed against and paid by the defaulting unit owner.

Section 16.10 - Coverage To Be Maintained By Unit Owners.

Any unit owner may, at their election, and at their expense, maintain any supplementary coverage required by any of the foregoing articles to be maintained by the Association. As well, all unit owners shall be responsible to procure, at their discretion and at their expense, hazard or casualty insurance for their personal property contained within their unit, as for example, furniture, appliances and the like. Premiums for that coverage shall be paid by the unit owners to the insurer they may elect because, in all events, the Association shall not be required to procure and maintain such insurance.

ARTICLE 17

INSURANCE TRUST AND USE OF PROCEEDS

Section 17.1 - Named Insured And Loss Payable.

For the policies required by the foregoing article to be maintained by the Association, and for the policies which may be elected in accordance with the foregoing article to be maintained by the Association, the name of the insured under such policies must be set forth therein substantially as follows:

"The Beachcomber Condominium Association, Inc., for the use and benefit of the individual owners."

The policies shall also be issued in the name of the insurance trustee contemplated in this article with whom the Association enters into an insurance trust agreement, or any successor trustee, for the use and benefit of the individual owners. Loss payable shall be in favor of the Association, or the insurance trustee, as a trustee for each unit owner and mortgagees for each unit owner. Each unit owner and each unit owner's mortgagees, if any, shall be beneficiaries of the policy. As contemplated in the foregoing article, evidence of insurance shall be issued to each unit owner and mortgagee upon request.

Section 17.2 - Designation Of Insurance Trustee.

The Association shall diligently attempt to obtain an insurance trustee who is qualified under the provisions of this Declaration and applicable law, and shall enter into an insurance trust agreement with the insurance trustee that conforms to the provisions

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of this Declaration. The trustee shall be an institution having offices in Duval County, Florida, which by applicable law is authorized to exercise trust powers within the state of Florida. Although it is not intended by the Developer to impose upon the Association the identity of any particular type of institution, the Association shall attempt first to obtain a national or state chartered commercial bank having a trust department to act as the insurance trustee, and preferably one which has exercised similar trust powers for other condominiums within Duval County, Florida.

Section 17.3 - Power Of Attorney From Unit Owners To Association Or Insurance Trustee.

All unit owners hereby appoint as their attorney-in-fact the Association or the insurance trustee, if the latter is appointed, for the purpose of purchasing and maintaining the insurance mandated by this Declaration to be procured by the Association or permitted by this Declaration to be procured by the Association. In connection with the purchasing and maintaining of such insurance, the Association or the trustee shall have the following exclusive duties and powers and any other duties and powers reasonably and necessarily incidental even though not enumerated in this Declaration: to receive, hold or otherwise properly dispose in accordance with this Declaration of any proceeds of insurance in trust for unit owners and their mortgagees, as their interest may appear; to negotiate losses and to execute releases of liability; to execute all other necessary documents.

Section 17.4 - Insurance Trust Agreement & Fees To Insurance Trustee.

The board of directors shall have the exclusive power to determine the terms and conditions of any insurance trust agreement including provisions for payment of reasonable fees to the trustee for the exercise and performance of its powers and duties.

Section 17.5 - Proceeds For Common And Limited Common Elements.

Proceeds from policies procured by the Association under this Declaration which are on account of damage to common elements or limited common elements shall be held by the Association or the insurance trustee in twelve (12) undivided shares for each unit owner.

Section 17.6- Proceeds For Units.

Proceeds from policies procured by the Association under this Declaration which are on account of damage to units shall be held in the following undivided shares:

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- (a) When the units are to be restored, for the owners of damaged units in proportion to the cost of repairing the damage suffered by each unit owner, which cost shall be determined by the board of directors of the Association, and in the event that an insurance trustee has been designated, it shall be entitled to rely upon and shall act in accordance with that determination.
- (b) When the units are not to be restored, for the owners of such units in undivided shares in proportion to their respective shares in the common elements appurtenant to their units (an undivided one-twelfth (1/12th) per unit). In making this Declaration the Developer has deemed it appropriate and equitable to grant to each unit as an appurtenance an undivided one-twelfth (1/12th) interest in the common elements even though there may be a differentiation in sale prices of the units that may indicate a differentiation in value. The Developer deems it further reasonable and equitable to provide the foregoing pro-rata distribution of insurance proceeds for damage to units notwithstanding the fact that there may be arguable differentiations in value of units at the time of such damage.

Section 17.7- Rights Of Mortgagees In Proceeds.

In the event a mortgagee endorsement has been issued as to a unit the shares of a unit owner in proceeds for damage to common elements and to the unit shall be held in trust for all mortgagees who are endorsees, as their lien priorities may appear, and the owners of the unit, all as their interests may appear. By making and accepting a mortgage against any unit created by this Declaration, a mortgagee agrees that it shall have no right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, except as otherwise expressly provided for in the article following this. Further, no mortgagee shall have the right to apply or have applied to reduction of the mortgage indebtedness any insurance proceeds, except distribution of such proceeds made to the unit owner and mortgagee pursuant to the provisions of this Declaration. Notwithstanding the foregoing, any mortgagee shall have the right to apply or have applied to the reduction of its mortgage debt any or all sums of insurance proceeds applicable to its mortgaged unit if the mortgage is not in good standing and is in default and if insurance proceeds are insufficient to restore or repair the building to the condition existing prior to the loss and if additional monies are not available for such purposes without contribution from the mortgagee.

Section 17.8 - Distribution Of Proceeds.

Proceeds of insurance policies received by the Association or the insurance trustee under this Declaration shall be distributed to or for the benefit of the beneficial owners in the following manner:

- (a) Expense Of Trust. All expenses of the insurance trustee, including agreed fees, shall be first paid or adequate provisions made for payment.
- (b) Reconstruction Or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds after reduction for expenses of trustee shall be paid to defray the cost of the reconstruction or repair in the manner provided in this Declaration. Any proceeds remaining after defraying the cost of reconstruction or repair shall be distributed to the beneficial owners, remittances to unit owners and mortgagees being payable jointly to them, with the Association or the insurance trustee having no duty to determine priority of rights as to such remittances between the unit owners and the respective mortgagees and/or between the mortgagees. This covenant for joint remittances between unit owners and mortgagees is a third party beneficiary contract in favor of any mortgagee of a unit and shall be enforceable by any such mortgagee.
- (c) Failure To Reconstruct Or Repair. If it is determined in the manner provided in this Declaration that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds remaining after reduction for expenses of the trustee shall be distributed to the beneficial owners, with remittances to the unit owners and their mortgagees to be in the same manner as provided in the foregoing subsection, with the same third party beneficiary contract being applicable.
- (d) Certificate From Association. In making distribution to unit owners and their mortgagees, the insurance trustee may rely upon a certificate of the Association made by its president and secretary, or the Association's managing agent, if there be one, as to the names of the unit owners and their mortgagees and their respective joint shares of distribution.

ARTICLE 18
RECONSTRUCTION OR REPAIR AFTER CASUALTY

Section 18.1 - Determination To Reconstruct Or Repair.

If any part of the condominium property shall be damaged by casualty, whether or not it shall be reconstructed or repaired, shall be determined in the following manner:

- (a) Common And Limited Common Elements. If the damaged improvement is a common or limited common element, it shall be reconstructed or repaired unless the damages to the common or limited common elements extend to units, in which case the provisions relative to reconstruction and repair of units and common and limited common elements, as provided in the following subsection, shall pertain.
- (b) Units and Common and Limited Common Elements. If the damaged improvement includes a unit and common elements and/or limited common elements, then this procedure shall apply. The board of directors of the Association shall employ, as a common expense, an architect, general contractor or other similar professional to preliminarily advise the Association if it appears that the insurance proceeds will be sufficient to pay the cost, both hard and soft, of the reconstruction or repair, but at this juncture the board of directors shall not have the duty nor shall exercise the right to incur the cost of plans and specifications and bids. The foregoing preliminary determination shall be made by the board of directors within thirty (30) days following the date of the casualty. Within ten (10) days following the date of that preliminary determination, the board of directors shall advise in writing all of the owners of all units, whether or not damaged, and all scheduled mortgagees of all units, whether or not damaged, of the preliminary determination. If the preliminary determination is that there are not sufficient insurance proceeds without contribution from unit owners or their mortgagees, there shall be no reconstruction or repair unless within twenty (20) days following the date of that notice seventy-five percent (75%) of all owners of all units, whether or not damaged, agree in writing to authorize the board of directors to incur the expense, as a common expense, of having plans and specifications drawn and bids made to determine finally if there is not sufficient insurance proceeds to make the reconstruction or repair, and if the final determination is that there is not sufficient proceeds, then there shall be no reconstruction or repair.

If the foregoing preliminary analysis for the board of directors should indicate that there is sufficient insurance proceeds to make the reconstruction or repair, then the reconstruction or repair shall be made unless, within thirty (30) days following the date of the notice of the preliminary analysis, seventy-five percent (75%) of owners of all units, whether or not damaged, and sixty-seven percent (67%) of all institutional mortgagees holding unpaid first lien mortgages of record upon all of the units, whether or not damaged, shall agree, in writing, that there shall be no reconstruction or repair. Provided, however, the Association shall not enter into any contracts for reconstruction or repair or commence reconstruction or repair if the plans and specifications and the bids for labor, services and materials indicate that the insurance proceeds will not be sufficient, in which case the board of directors shall notify the owners and mortgagees in the same manner as required above for the preliminary analysis and there shall be no reconstruction or repair, but the cost incidental to obtaining the plans and specifications and the bids shall be a common expense.

- (c) Identification Of Owners And Mortgagees And Certificate To Insurance Trustee. In determining the identity of owners and mortgagees for the notices under the foregoing subsections during the thirty (30) day period that the board of directors is required to have a preliminary analysis made, it shall procure at the expense of the Association, as a common expense, a title search of the current public records of Duval County, Florida, dated not more than ten (10) days before the date of the notice, which title search shall be for the purpose of determining all owners of record of all of the units and all institutional first mortgagees of record, but the Association shall have no duty to determine which mortgages are paid but not satisfied of record. Any changes in ownership or mortgage interest occurring after the date of the abstract shall not affect the validity of the determinations contemplated in the foregoing subparagraphs unless and until the board of directors is advised in writing, which writing must be actually received, not less than ten (10) days before a determination is to be made by the board of directors, the unit owners or the mortgagees, as contemplated above, that there has been a change in facts since the date of the title abstract. The insurance trustee may rely upon a certificate of the Association made by its president and secretary as to the identity of the owners

and mortgagees for the foregoing purposes and as to whether or not the unit owners and mortgagees, as their rights may appear above, have made a decision whether or not to reconstruct or repair.

- (d) No Affirmative Duty On Association Or Trustee To Seek Determinations Not Required By This Section. As specifically contemplated in the second subsection of this section, if the preliminary analysis so warrants, reconstruction and repair may be proceeded with by the board of directors in accordance with this article unless the foregoing percentages of owners and mortgagees agree in writing not to reconstruct or repair. Under those circumstances, the written decision not to reconstruct or repair must be received by the board of directors within the foregoing stated period of time, failure of which receipt shall act as authority for the board of directors to proceed with making the reconstruction or repair, and the board of directors shall have no affirmative duty to poll the appropriate number of owners and mortgagees to determine if they have or intend to enter into a written agreement not yet received by the board of directors. For the purposes of this subsection, receipt by the board of directors shall be deemed to have been made if the writing is actually received by any officer or acting member of the board of directors.

Section 18.2 - Plans And Specifications. Upon completion of initial construction of the condominium property, the Developer shall provide to the Association a set of the plans and specifications employed for the initial construction. When reconstruction or repair has been determined in accordance with the foregoing section, any reconstruction or repair shall be substantially in accordance with those plans and specifications unless the board of directors first obtains in writing the written approval of seventy-five percent (75%) of the owners of all units and sixty-seven percent (67%) of the unpaid, institutional first mortgagees, as identified in accordance with the foregoing section. The board of directors shall employ at the expense of the Association, as a common expense, the architect who drew the original plans and specifications, or any other licensed architect, to prepare a set of plans and specifications for the reconstruction and repair, which plans and specifications must conform to the requirements of this Section. In determining whether or not the plans and specifications for the reconstruction or repair contain a substantial modification from the original plans and specifications, the board of directors shall be entitled to rely in good faith upon the advice of the licensed archi-

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tect hired by the board of directors to prepare the reconstruction or repair plans and specifications. Also, if there should be any substantial modifications necessitated by then applicable laws, rules, regulations or codes, or by circumstances which lead the licensed architect to advise substantial modifications ought to be made, as for example, new technology not in existence at the time of the original construction, and if the substantial modifications do not exceed the insurance proceeds and do not materially impair the value of the reconstructed or repaired condominium property, the owners and mortgagees having the right to approve a substantial modification shall not unreasonably withhold that approval.

Section 18.3 - General Contractor. Either at its own election, or upon the advice of the licensed architect hired by it, the board of directors shall, after preparation of the plans and specifications for reconstruction or repair, hire a licensed general contractor to effect the reconstruction or repair in accordance with the plans and specifications. This hiring shall be by written contract and shall be in form and substance as the board of directors may be advised by their architect or legal counsel, and shall include an express warranty by the general contractor as to the quality of construction upon terms that the board of directors is best able to extract in the market, but in all events must at least contain the element that the contractor warrants that the construction has substantially complied with the plans and specifications for reconstruction or repair.

Section 18.4 - Inspecting Architect And Certificates To Association For Insurance Trustee.

When reconstruction or repair is to be made in accordance with this article, and as a part of the common expense of reconstruction and repair, the Association shall employ a licensed architect to inspect construction for the benefit of the Association, the unit owners, and their mortgagees, and the certificates from that inspecting architect shall be provided to the Association, or the insurance trustee, whichever is making disbursements, as a condition precedent to making progress payments to the contractor under the terms of the reconstruction or repair contract.

Section 18.5 - Assessments For Reconstruction And Repair.

Notwithstanding any of the foregoing, in the event that insurance proceeds are not sufficient to defray the cost of reconstruction or repair after the final determination (when the plans and specifications have been prepared and the bids have been received), all

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of the owners of all of the units may, at their election, agree in writing to assess themselves for the deficit and to proceed with the reconstruction and repair, which assessment shall be treated as is any other common expense. After it has been determined in accordance with the foregoing sections that reconstruction or repair is to be commenced, and during the course of construction there should develop a deficit between the cost and the available insurance proceeds, the board of directors of the Association may impose an assessment for that deficit against all owners in the same manner as any other common expense, subject to reimbursals, if any, to the unit owners in proportion to their actual payment of such assessments for any recoveries for cost overruns caused by breach of contractual obligations by any provider of labor, services or materials to the Association, but the recovery of those damages by the Association shall not be a condition precedent to the completion of reconstruction or repair or to the making of the assessment for deficits by the Association.

Section 18.6 - Holding And Disbursement Of Reconstruction Or Repair Funds.

The funds for payment of the cost, both hard and soft, for reconstruction or repair, whether they be insurance proceeds or assessments against the owners as established in accordance with this article, shall be held and disbursed in the following manner:

- (a) Association. If the total of the fund is \$10,000.00 or less, they shall be held by and disbursed by the Association. In all cases where the funds are \$10,000.00 or more, they shall be held by and disbursed by the insurance trustee, if there be one.
- (b) Disbursements. The proceeds shall be disbursed by the Association, or the insurance trustee, as the case may be, as follows:
 - (i) Unit Owner. In a later section of this article there are rules established for instances in which a unit owner only shall be responsible for reconstruction or repair after casualty. In such event, the portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies only with the unit owner, shall be paid by the Association or the insurance trustee, as the case may be, to the unit owner, or, if there is a mortgagee endorsement on the policy for the unit, then to the unit owner and the mortgagees jointly, who may use such proceeds as they may be advised.

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- (ii) Parties Providing Labor, Services or Materials. In all other events, the proceeds shall be disbursed by the Association or the insurance trustee, as the case may be, to the parties providing labor, services and materials, in accordance with the contractual provisions entered into by the Association and in accordance with the architect's certificate required above. Compliance with the owner requirements under any then applicable mechanic's lien law shall be the responsibility of the board of directors of the Association, whether or not the disbursements are being made by the Association or the insurance trustee, and in the latter event the insurance trustee shall be entitled to rely upon written instructions from the board of directors as to such compliance. As a part of the cost of reconstruction or repair, the board of directors shall be entitled to employ legal counsel as a common expense for advice as to compliance during the course of construction with any then applicable mechanic's lien law.
- (iii) All proceeds shall be disbursed first to the payment of all cost in connection with the reconstruction or repair, whether hard or soft. If after payment of all such expenses there exists any surplus in the proceeds, that surplus shall be distributed to the unit owners on a basis of one-twelfth (1/12th) each unit, but only after reduction for any unpaid assessments in connection with reconstruction or repair and any past due assessments for any other common expenses; if there is any mortgagee endorsement for that unit, the surplus shall be distributed jointly to the unit owner and the mortgagees who may use such surplus as they may have agreed or do agree between themselves.
- (iv) Certificates To Insurance Trustee. Notwithstanding any of the foregoing, the insurance trustee shall not be required to determine whether or not sums derived from insurance proceeds or from assessments to the unit owners are to be deposited with the Association or the insurance trustee under the provisions of this Declaration, as it is the duty of the Association to comply with the provisions of this Declaration in making that determination, so that the duties of the insurance trustee for holding and disbursing funds under this Declaration arise only at that point that the funds are provided by the Association to the insurance trustee. Further, the insurance trustee shall not be required to approve the architect drawing the reconstruction or repair plans and specifications,

the architect to inspect and certify as a condition to disbursements, or the general or other contractors who may be employed by the Association, and, as well, the insurance trustee shall not be required to determine if an amount of disbursement is proper or if the payees for that disbursement are appropriate, but, rather, in all events shall be entitled to receive from the board of directors of the Association a written certificate signed by the president and secretary delineating therein the sufficient details as to the amounts and payees of the disbursements, together with the representation that, where applicable, the particular disbursement is supported by the architect's certificate required by this article.

Section 18.7 - Reconstruction or Repair Responsibility For Unit Owners.

If the damage is only to those parts of units for which the responsibility of maintenance is imposed upon only unit owners of the particular unit under Article 13, then the unit owner of the particular unit shall be responsible for reconstruction and repair after casualty. In all other events, the responsibility of reconstruction and repair after casualty shall be that of the Association.

ARTICLE 19
CONDEMNATION

The taking of condominium property by condemnation or purchase in lieu of a condemnation action shall be deemed a casualty and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty and shall be deposited with the insurance trustee, if there be one, or otherwise with the Association. The issue of whether or not to reconstruct after condemnation shall be controlled by the provisions of the foregoing article. Even though the awards may be payable to unit owners, the unit owners shall deposit the awards with the insurance trustee or the Association, as the case may be, and, in the event of failure to do so, in the discretion of the board of directors of the Association, a special assessment may be made against the defaulting unit owner in the amount of his award plus cost and reasonable attorney's fee incurred by the Association. The Association shall represent the unit owners in the condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the common elements, or part thereof, by the condemning authority. For this purpose, each unit owner appoints the Association as its attorney in fact. All mortgagees entitled to notice concerning reconstruction and repair in accordance with the foregoing article shall also be entitled to notice in the event of commencement of condemnation proceedings or negotiations for

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a purchase in lieu of condemnation proceedings. This notice shall be given within ten (10) days after the Association actually learns of the intention of the condemning authority to proceed under its eminent domain powers.

ARTICLE 20
PURCHASE OF UNITS BY ASSOCIATION

The Association shall have no right of first refusal, option, or other right to require a unit owner to sell their unit to the Association, nor shall the Association have any right to approve a purchaser of any unit; provided, however, all such sales and purchases shall be subject to the provisions of this Declaration. However, the Association shall have the power to agree to purchase units, subject to the following provisions:

Section 20.1 - Decision By Board Of Directors.

The decision by the Association to purchase a unit shall be made by its board of directors, without approval of its membership, except as otherwise expressly provided for in this article.

Section 20.2 - Limitations.

If at any one time the Association be the owner or agreed purchaser of three (3) or more units, it may not purchase any additional units without the prior written approval of sixty-seven percent (67%) of the members eligible to vote. A member whose unit is the subject matter of the proposed purchase shall be ineligible to vote. Provided, however, the foregoing limitation shall not apply to units to be purchased at public sale resulting from a foreclosure of the Association's lien for delinquent assessments where the bid of the Association does not exceed the amount found by the court to be due to the Association, nor does it apply to a unit to be acquired by the Association by deed in lieu of foreclosure of such lien if the consideration does not exceed the indebtedness secured by the lien.

ARTICLE 21
AMENDMENTS TO DECLARATION, ARTICLES OF
INCORPORATION AND BY-LAWS

Except where the right to amend this Declaration is reserved to the Developer, all amendments of this Declaration, the Articles of Incorporation, and the By-Laws, are controlled by the following rules:

Section 21.1 - Amendments.

- (a) Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.
- (b) Resolution. An amendment may be proposed by either the Board of directors or by sixty-seven percent (67%) of the

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members of the Association. A resolution adopting a proposed amendment must bear the approval of not less than the majority of the board of directors and by sixty-seven percent (67%) of the members of the Association. Directors and members not present at the meetings considering the amendment may express their approval, in writing, delivered to the secretary before such meetings.



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Such amendment shall be effective when recorded in the current public records of Duval County, Florida, which recording shall be at the expense of the Association as a common expense.

- (c) Agreement. In the alternative, an amendment may be made by an agreement signed and acknowledged by all of the record owners of units in the condominium in the manner required for the execution of the deed, and such amendment shall be effective when recorded in the current public records of Duval County, Florida, at the expense of the Association as a common expense.
- (d) Developer Exception. Notwithstanding any provision in this article, so long as the developer shall hold fee simple title to all of the condominium property, the developer may amend this Declaration, the Articles of Incorporation and the By-laws, which amendment shall become effective when filed with the Florida Secretary of State, where necessary, and when recorded in the current public records of Duval County, Florida. Provided, however, such amendments, if any, shall be subject to the approval of the Division of Condominiums and any purchaser as may be provided by the Condominium Act.
- (e) Proviso. Notwithstanding any provisions in this article, no amendment shall discriminate against unit owners nor against any unit, nor against any class of unit owners or units unless the unit owners so affected and their first mortgagees shall assent to the amendment. Any amendment which purports to change or subdivide the unit, to change the share of a unit in the common elements and other appurtenances, or to increase a unit's share in the common expenses shall require approval in writing of sixty-seven percent (67%) of the unit owners other than the Developer, and shall further require written approval by the owner of the unit concerned and written approval of all of the mortgagees of the affected unit, which approval must be evidenced by joinder of those persons or parties in the execution of the amendment. An amendment of this Declaration shall not make any change in Articles 16, 17, and 18, unless the record owners of all mortgages upon units in the condominium shall join in the execution of the amendment. Further, unless all of the mortgagees and sixty-seven percent (67%) of the owners other than the Developer have given their written approval, the Association shall not by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common or limited common elements; provided, however, the granting of easements by the Association for public utilities or for other public purposes not inconsistent with intended use of the common elements as expressed in the various provisions of this Declaration shall not be deemed to be an act or omission within the meaning of this sentence. Further, no amend-

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ments shall make any change in any provision herein relating specifically to the Developer without the Developer's prior written consent and joinder in the execution of the amendment. Further, once title to any portion of the condominium property has passed from the Developer, and anything in this Declaration to the contrary notwithstanding, the consent of sixty-seven percent (67%) of the unit owners and the approval of all mortgagees of record of units which have at least fifty-one percent (51%) of the votes of units shall be required to add or materially amend any provision of this Declaration, the Articles of Incorporation or the By-laws, which establish, govern, or regulate the following:

- (a) Voting;
- (b) Assessments, assessment liens or subordination of such liens;
- (c) Reserves for maintenance, repair and replacement of common elements;
- (d) Leasing of units;
- (e) Imposition of any right of First refusal or similar restriction on the right of the unit owner to sell, transfer or otherwise convey his unit;
- (f) Insurance or fidelity bonds;
- (g) Rights to use of the common elements and limited common elements;
- (h) Various responsibilities for the Association or the unit owners for maintenance, repair and restoration of the condominium property;
- (i) Expansion or contraction of the condominium regime or the addition, annexation or withdrawal of property to or from the regime;
- (j) Boundaries of any unit;
- (k) The interest in the general or limited common elements;
- (l) Convertibility of units into common elements or the convertibility of common elements into units;
- (m) Any provision which are for the express benefit of holders of mortgages or insurers or guarantors of mortgages.

Section 21.4 - Execution And Recording.

A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the officers of the Association with the formalities of a deed. That certificate and the amendment shall be executed and acknowledged with the formalities of a deed and shall become effective when recorded in the current public records of Duval County, Florida.

ARTICLE 22
TERMINATION

This condominium may be terminated or abandoned in the following manner:

Section 22.1 - Condominium Act.

Except as modified by this article, the rules concerning termination are controlled 718.117.

Section 22.2 - By Developer.

This condominium may be terminated at any time by the Developer when he holds title to all of the condominium property.

Section 22.3 - By Agreement.

This condominium may be terminated or abandoned at any time by agreement in writing of all of the record owners and all of the record lienholders.

Section 22.4 - Substantial Destruction.

If the condominium improvements are substantially destroyed by a common casualty and it is decided that there will not be reconstruction in accordance with Article 18, the condominium form of ownership will terminate without agreement and the owners of the common elements shall as of that time be owners as tenants-in-common of the condominium property and assets of the Association with their undivided shares being in proportion to their shares in the common elements appurtenant to their respective units prior to the destruction. Further, in such event, the mortgagees and lienholders of the units shall have a mortgage or lien, in their priorities as existed before the destruction, against the undivided interest of the owners. In the event of a termination under this section, the Association through its president and secretary shall create a certificate stating the facts as to why the termination is being made and giving the effective date of the termination, which certificate shall be recorded in the current public records of Duval County, Florida, as a common expense of the Association.

Section 22.5 - Amendment Of This Article.

Notwithstanding any other provision of this Declaration, this article shall not be amended without the prior written consent of all record owners and all record lienholders, which consent, if obtained must be made in writing and executed and acknowledged with the formalities of a deed and recorded in the current public records of Duval County, Florida, as a common expense of the Association.

ARTICLE 23
APPLICATION OF THIS DECLARATION, COMPLIANCE, DEFAULT
AND APPLICABLE LAW

Section 23.1 - Application Of Declaration.

This Declaration, and any amendments to it made in accordance with its terms, are enforceable equitable servitudes which run with the title to the land and all improvements constituting this condominium, and this Declaration and any amendment shall be effective until the condominium is terminated in accordance with the terms of this Declaration. Any party acquiring an interest in any of the condominium property, whether such interest be in fee simple, by easement, by lien or otherwise, shall be subject to the terms and conditions of this Declaration as it may be amended in accordance with its terms.

Section 23.2 - Compliance.

All parties having an interest in the condominium property shall comply with the terms and conditions of this Declaration, except that mortgagees or lienholders shall not be required to comply with the terms of this Declaration, except as otherwise expressly provided, until such time as they become owners.

Section 23.3 - Enforcement By Association.

Except as otherwise expressly granted to the individual unit owners, all enforcement of this Declaration shall be by the Association, and, if one be appointed, by its manager, but in the latter event only to the extent expressly provided for in the contract of management. In enforcing this Declaration, the Association, its manager, if any, and their respective agents or employees are hereby granted a right of entry upon unit premises and any limited common element appurtenant to a particular unit to effect emergency repairs, and a reasonable right of entry to the same property to effect any other repairs, improvements, replacements, reconstruction, maintenance as necessary and as required by this Declaration to be performed by the Association.

Section 23.4 - Enforcement By Unit Owners.

Any aggrieved unit owner shall have the right of action at law or in equity against other unit owners or the Association for failure to comply with the provisions of this Declaration, the Articles of Incorporation, the By-laws, or other condominium documents, or the decisions of the Association made pursuant to authority granted to the Association by the condominium documents. However, where a provision of this Declaration or the other condominium documents gives the authority of enforcement to the Association, one or more unit owners shall not be entitled to take action to enforce this Declaration without first demanding that the Association exercise its powers, and, only upon a petition to a court of competent jurisdiction for an order requiring the Association to take action to enforce this Declaration.

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or the other condominium documents, and in such event if the petitioning unit owner(s) prevail, they shall be entitled to recover all cost and a reasonable attorney's fee against the Association, which shall be treated as a common expense of the Association applicable to all unit owners including those who filed the petition.

Section 23.5 - Negligence.

A unit owner shall be liable for the expense of any maintenance, repair, replacement, or restoration rendered necessary by his act, neglect or carelessness or by that of any member of his family, his lessees or his social or business invitees, but only to the extent that such expenses are not met by the proceeds of insurance carried by the Association and/or the negligent owner. Liability shall also include any increase in insurance rates for the Association caused by the negligence.

Section 23.6 - Applicable Laws.

This Declaration shall be construed and enforced in accordance with the laws of the State of Florida. It is expressly agreed that any covenant in this Declaration is a promise to be performed in Duval County, Florida, and, unless otherwise prohibited by other provisions of law, it is agreed that jurisdiction and venue for any action under this Declaration shall be in the appropriate court in Duval County, Florida.

Section 23.7 - Cost And Attorney's Fees.

In addition to the provisions of Section 23.4, in any proceeding arising because of an alleged failure of a person or party to comply with the terms of this Declaration, Articles of Incorporation, By-Laws, rules and regulations, management agreements or other condominium documents, all as the same may be appropriately amended from time to time, the prevailing party shall be entitled to recover all cost and a reasonable attorney's fee, including all levels of appellate litigation; provided, however, except as provided for in Section 23.4, no attorney's fees may be recovered against the Association, and any management agreement shall so expressly provide.

Section 23.8 - Waivers.

A waiver of a right, duty or default under this Declaration shall not constitute a waiver of such right, duty or default at another time whether such waiver be in writing, orally or by conduct, nor shall it act as a waiver of any other right, duty or default at any time.

Section 23.9 - Severability.

The invalidity in whole or in part of any part of this Declaration, the Articles of Incorporation, the By-laws, any rules and regulations promulgated pursuant to this Declaration, and any other condominium documents shall not affect the remaining portions.

ARTICLE 24
USE RESTRICTIONS

The use of the condominium property shall be in accordance with the following provisions as long as the condominium exists and condominium buildings in useful condition exist upon the land.

Section 24.1 - Rules And Regulations.

As a supplement to the use restrictions contained in this article, the Association shall have the power, from time to time, to adopt and enforce reasonable rules and regulations not inconsistent with this Declaration for the use and enjoyment of the condominium property.

Section 24.2 - Units.

Each of the units shall be occupied only by a single family, its servants and guests, as a residence and for no other purposes, including but not limited to incidental commercial purposes, whether or not they would be permitted by applicable zoning. In all events, and at all times, no unit shall be occupied by more than six (6) persons who are staying for thirty (30) or more consecutive days, or by any number of persons at any time whose number constitutes a nuisance to the other unit owners.

Section 24.3 Common Elements.

The common elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the units.

Section 24.4 - Leasing.

A unit owner may lease their unit in accordance with this section of this Declaration. Leases may be oral or written. All leases shall require all tenants to comply with all provisions of applicable law, rules and regulations, including this Declaration. Leases shall not be for a term of less than one (1) day. The leasing of a unit by an owner shall not discharge the owner from his obligations under this Declaration, the Articles of Incorporation and By-Laws, but nothing in this sentence shall be construed to prohibit a unit owner from requiring the tenant to perform some or all of those duties. The Association, or the other unit owners, as may be provided in this Declaration, shall have the right to bring actions against any tenant for violations of applicable laws and agreements including this Declaration, the Articles of Incorporation, the By-Laws and any rules and regulations promulgated by the board of directors. Moreover, the Association shall have the right through its board of directors, and for this purpose all owners hereby appoint the Association as its attorney-in-fact,

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to terminate the lease and to seek an action for possession or eviction if the tenant is not in compliance with the requirements of this section, but this right shall be exercised only upon reasonable prior written notice to the owner whose tenant is in default.

Section 24.5 - Nuisances.

No acts or failure to act shall exist which would constitute a nuisance upon any portion of the condominium property. All of the condominium property shall be kept in a clean and sanitary condition with no rubbish or garbage being allowed to accumulate or being disposed of other than in receptacles provided by the Developer, the Association, or as required or provided by the public of refuse collection services. No fire hazard shall be allowed to exist. No use of the condominium property shall be made that would increase the cost of insurance for the Association. In all events, no immoral, improper, offensive or unlawful use shall be made of the condominium property at any time.

Section 24.6 - Exterior Equipment.

No exterior equipment, including any antennas, shall be placed or maintained on the condominium property except as approved by the board of directors of the Association. CONTINUED ON PAGE 39A.

Section 24.7 - Developer's Use.

Except as otherwise provided in this Declaration, and until such time as the Developer has completed all of the contemplated improvements and has sold all of the units contained within the condominium property, neither the owners nor the Association, nor their use of the condominium property, shall interfere with the completion of the improvements or the sale of the units. The Developer may make such use of the unsold units and the common elements as may facilitate such completion and sale, including but not limited to maintenance of a sales office in an unsold unit or in a portion of the common elements, display of sale signs, and the showing of unsold units to prospective purchasers. Until completion and sale of all of the units by Developer, no "for sale" or "lease" sign may be displayed upon the condominium property without the prior consent of the Developer.

Section 24.8 - Signs.

Signs for any purpose, including sale or leasing, shall be subject to the rules and regulations promulgated by the board of directors of the Association from time to time.

Section 24.9 - Parking And Vehicle Storage.

No disabled or inoperative vehicle shall be parked or stored on the condominium premises either in the covered parking spaces or

The following language constitutes additional provisions for Section 24.6 appearing on foregoing page 39:

This section expressly includes the equipping and furnishing of the limited common elements, the balconies. Further, any window coverings, whether they be drapes, blinds or the like, shall have for their backing, meaning that surface which is exposed to the outside through the window, a harmony as to color or shade of color so as to present a harmonious exterior appearance for the entire building. The color or shade of color shall be as established from time to time by the board of directors.

the uncovered parking spaces. No more than one vehicle belonging to the owner, tenant or invitee for a unit shall be parked in each covered parking space nor more than one vehicle belonging to an owner, tenant, or invitee shall be parked in an uncovered parking space. No unit, either through owners, tenants or invitees, shall occupy more than one covered parking space and one uncovered parking space at any time, as it is the intention of the Developer that in all events each unit have available two parking spaces. The types and size of operable vehicles that may be parked on the condominium property and other rules and regulations in connection with the use and enjoyment of the parking spaces shall be subject to Association determination from time to time in accordance with this Declaration, the Articles of Incorporation and the By-Laws.

Section 24.10 - Pets.

Pets shall never be entirely prohibited unless there is a duly adopted amendment of this Declaration. The type, size, number, and control of pets shall be subject to rules and regulations adopted from time to time by the Association.

Section 24.11 - Prohibited Rules And Regulations.

At no time shall the Association adopt or attempt to enforce any rule or regulation which is otherwise prohibited by law, as for example, unlawful discriminations based upon age, gender, race, or religion. There shall be no rule or regulation adopted prohibiting children except in the same manner as provided in this Declaration for the adoption of an amendment to this Declaration; but, at all times, the Association shall have the power to adopt reasonable rules and regulations concerning the conduction of minors on the condominium property and their supervision by their parents or guardians.

Section 24.12 - Conflicts Between This Declaration And Rules And Regulations Adopted By Association.

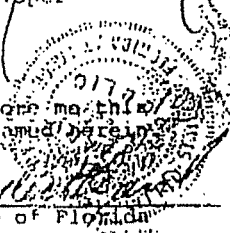
In the event of any conflict between the terms of this Declaration and any rule or regulation promulgated by the Association, the terms of this Declaration shall prevail.

Executed by the Developer this 10 day of May, 1983.

W. J. ...
W. P. ...
M. ...
()
STATE OF FLORIDA)
COUNTY OF)

Heedot Senturk, Developer

The foregoing instrument was acknowledged before me this 10 day of May, 1983, by Heedot Senturk, Developer named herein.
My commission expires: 3/11/84
Notary Public, State of Florida



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JOINDER BY CONSTRUCTION LENDER IN DECLARATION
OF CONDOMINIUM FOR THE BEACHCOMBER, A CONDOMINIUM

Southeast Bank, N.A., Jacksonville Banking Center, a corporation organized and existing under the laws of the United States of America, the undersigned, is the owner and holder of that certain mortgage made by Needet and Sharon Senturk, in favor of the undersigned, securing the original principal sum of \$ 500,000.00, and recorded in Official Records Volume 5552, page 1451 of the current public records of Duval County, Florida.

The undersigned hereby joins in this Declaration of Condominium of the Beachcomber, a condominium, for the purposes of subordinating the lien, operation and effect of its mortgage to the terms and conditions of this Declaration.

Except as expressly provided above, nothing contained in this joinder shall be construed to modify the mortgage or the indebtedness which it secures or to discharge any obligor thereunder.

Signed, sealed and delivered
in the presence of:

SOUTHEAST BANK, N.A.

Ma. (Signature)

By: John F. Jones
John F. Jones
its Vice President

(STATE OF FLORIDA)
(COUNTY OF)

The foregoing instrument was acknowledged before me this 10th day of May, 1983, by John F. Jones as Vice President of Southeast Bank, N.A., a corporation organized and existing under the laws of the United States of America.

Ma. (Signature)
Notary Public, State of Florida

My commission expires: _____

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JOINDER BY LEONARD SHANE IN DECLARATION
OF CONDOMINIUM FOR THE BEACHCOMBER, A CONDOMINIUM

Leonard Shane, a single man, is the owner and holder of that certain mortgage made by Necdet Senturk and Sharon Senturk, his wife, in favor of the undersigned, securing the original principal sum of \$250,000.00, and recorded in Official Records Volume 5534, page 1897 of the current public records of Duval County, Florida.

The undersigned hereby joins in this Declaration of Condominium of the Beachcomber, a condominium, for the purposes of subordinating the lien, operation and effect of its mortgage to the terms and conditions of this Declaration.

Except as expressly provided above, nothing contained in this joinder shall be construed to modify the mortgage or the indebtedness which it secures or to discharge any obligor thereunder.

Signed, sealed, and delivered in the presence of:

[Signature]
[Signature]

Leonard Shane
Leonard Shane

STATE OF FLORIDA)
COUNTY OF DUVAL)

The foregoing instrument was acknowledged before me this 13 day of April, 1983, by Leonard Shane, a single man.

[Signature]
Notary Public, State of Florida

My Commission expires 12/23/86

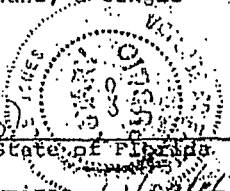


EXHIBIT A
TO DECLARATION OF CONDOMINIUM OF THE BEACHCOMBER
A CONDOMINIUM

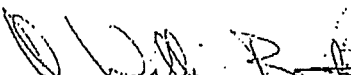
SURVEYOR'S CERTIFICATE PURSUANT TO FLORIDA STATUTES
§718.104(4)(c) (1982)

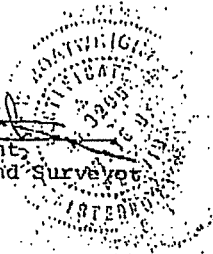
I, Donn William Boatwright, the undersigned, a registered land surveyor authorized to practice in the State of Florida, hereby certify as follows:

1. Construction of the Beachcomber Condominium as described in this Exhibit and the Declaration to which it is attached has been substantially completed.
2. This constitutes Exhibit A to the Declaration to which is it attached.
3. This exhibit consists of this covering certificate, whose pages are neither numbered nor lettered, and the site plan, the schedule of partially covered parking spaces, the graphic representation of the floor plans, the schedule of floor plans as they relate to units and certain other dimensions, the survey of the condominium lands and surrounding lands, and legal descriptions, all constituting pages numbered 1 through 8, inclusive.
4. This certificate and its attachments show all existing easements.
5. This certificate and its attachments, together with the Declaration to which all of this is attached, are in sufficient detail to identify the common elements, the limited common elements, each unit, and their relative locations and approximate dimensions so that this material, together

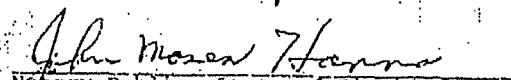
with the provisions of the Declaration to which this material is attached, is an accurate representation of the location and dimension of the improvements, and so that the identification, location and dimensions of the common elements and each unit can be determined from all such materials.

6. This certificate and the materials attached to it conform to the requirements of Florida Statutes §718.104(4)(c) (1982).


Donn William Boatwright
Florida Registered Land Surveyor
No. 3295



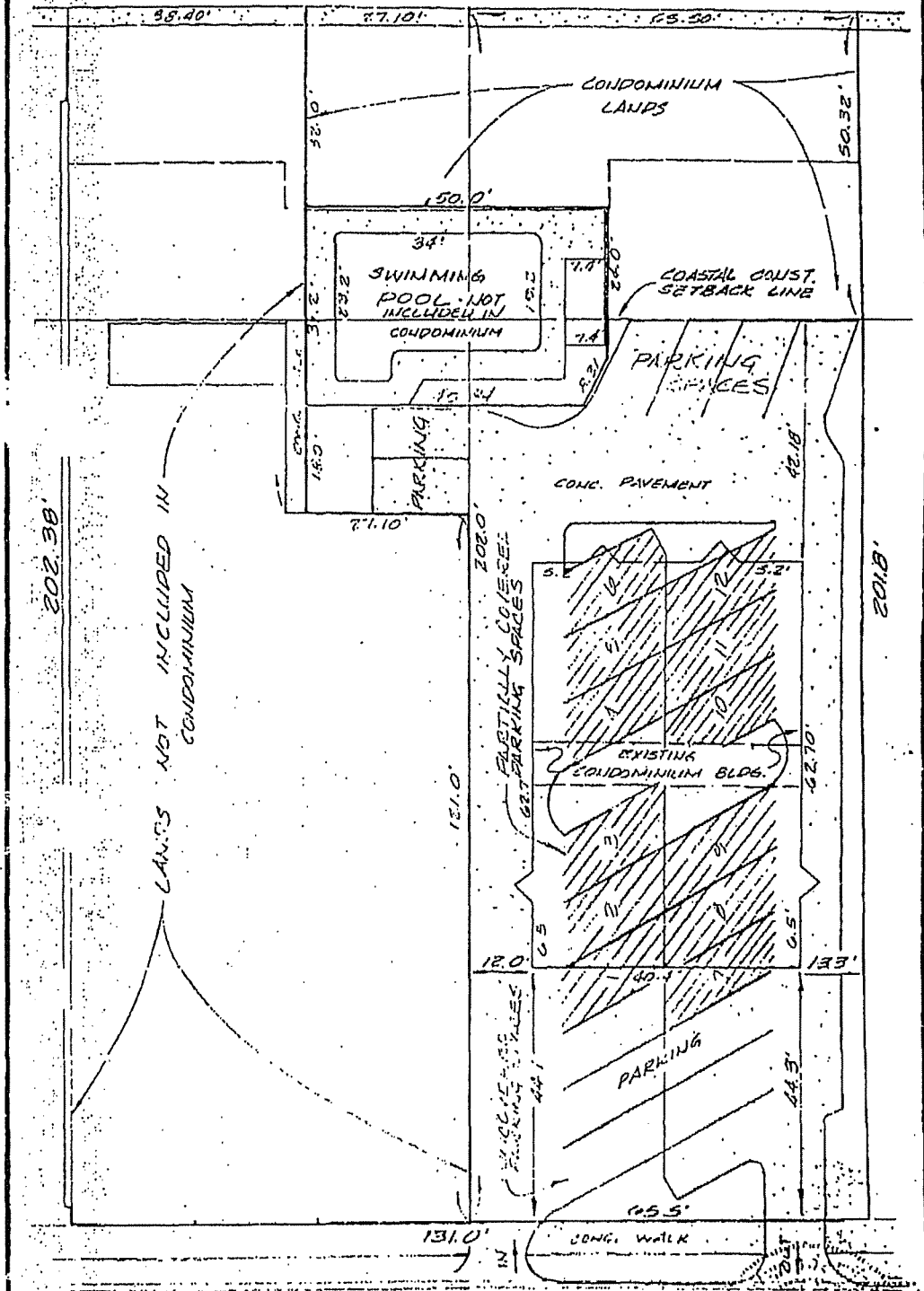
Sworn to and subscribed before me
this 27th day of April, 1983.


Notary Public, State of Florida

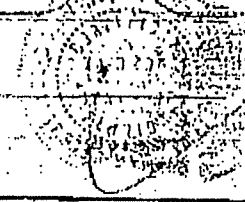
My commission expires:

Notary Public, State of Florida
My Commission Expires on 8/1/84

ATLANTIC OCEAN



FIRST STREET 30' RW



OFFICIAL RECORDS

DESIGNATION OF LIMITED COMMON ELEMENTS, PARTIALLY COVERED PARKING SPACES

LIMITED COMMON AREAS PARTIALLY COVERED PARKING SPACES

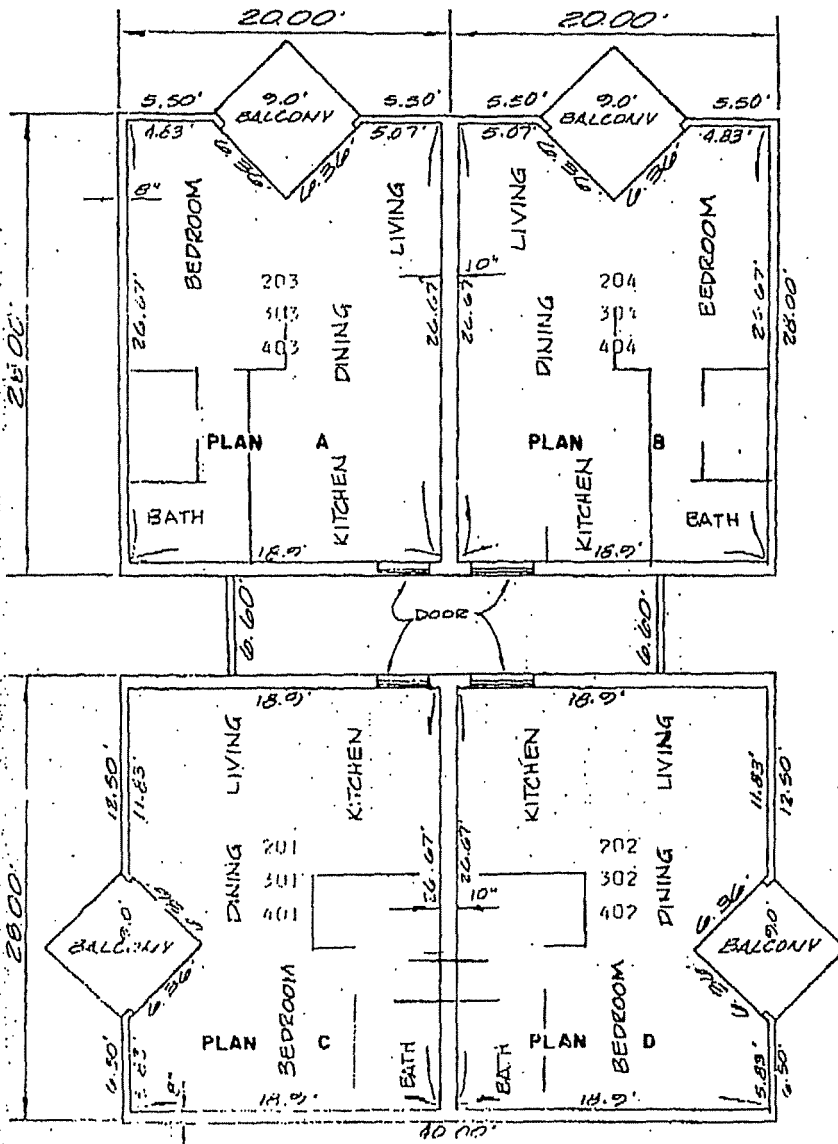
PARTIALLY COVERED PARKING SPACE DISTRIBUTED TO EACH UNIT AS FOLLOWS

<u>PARKING SPACE NUMBER</u>	<u>UNIT NUMBER</u>
1	202
2	401
3	402
4	201
5	403
6	301
7	404
8	304
9	303
10	302
11	204
12	203

NOTE: EACH PARKING SPACE IS SUBSTANTIALLY SIMILAR IN SIZE TO THE OTHERS AND THE APPROXIMATE SIZE IS 180 SQUARE FEET.

THERE ARE 12 ADDITIONAL UNCOVERED PARKING SPACES ALLOCATED, THUS MAKING THE CONDOMINIUMS TOTAL PARKING SPACES 24.

ATLANTIC OCEAN



FIRST STREET



Vol 5649762188

OFFICIAL RECORDS

Schedule of Floor Plans, Units, And
Certain Dimensions, For Phase I

PLAN A	UNIT NO.	PLAN B	UNIT NO.	PLAN C	UNIT NO.	PLAN D	UNIT NO.
	203		204		201		202
	303		304		301		302
	403		404		401		402

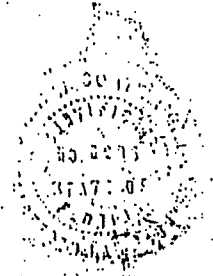
FIRST FLOOR	UNIT NO.	SECOND FLOOR	UNIT NO.	THIRD FLOOR	UNIT NO.
	201		301		401
	202		302		402
	203		303		403
	204		304		404

Each unit is approximately 536 square feet.

FLOOR PLAN - BEACHCOMBER PHASE I

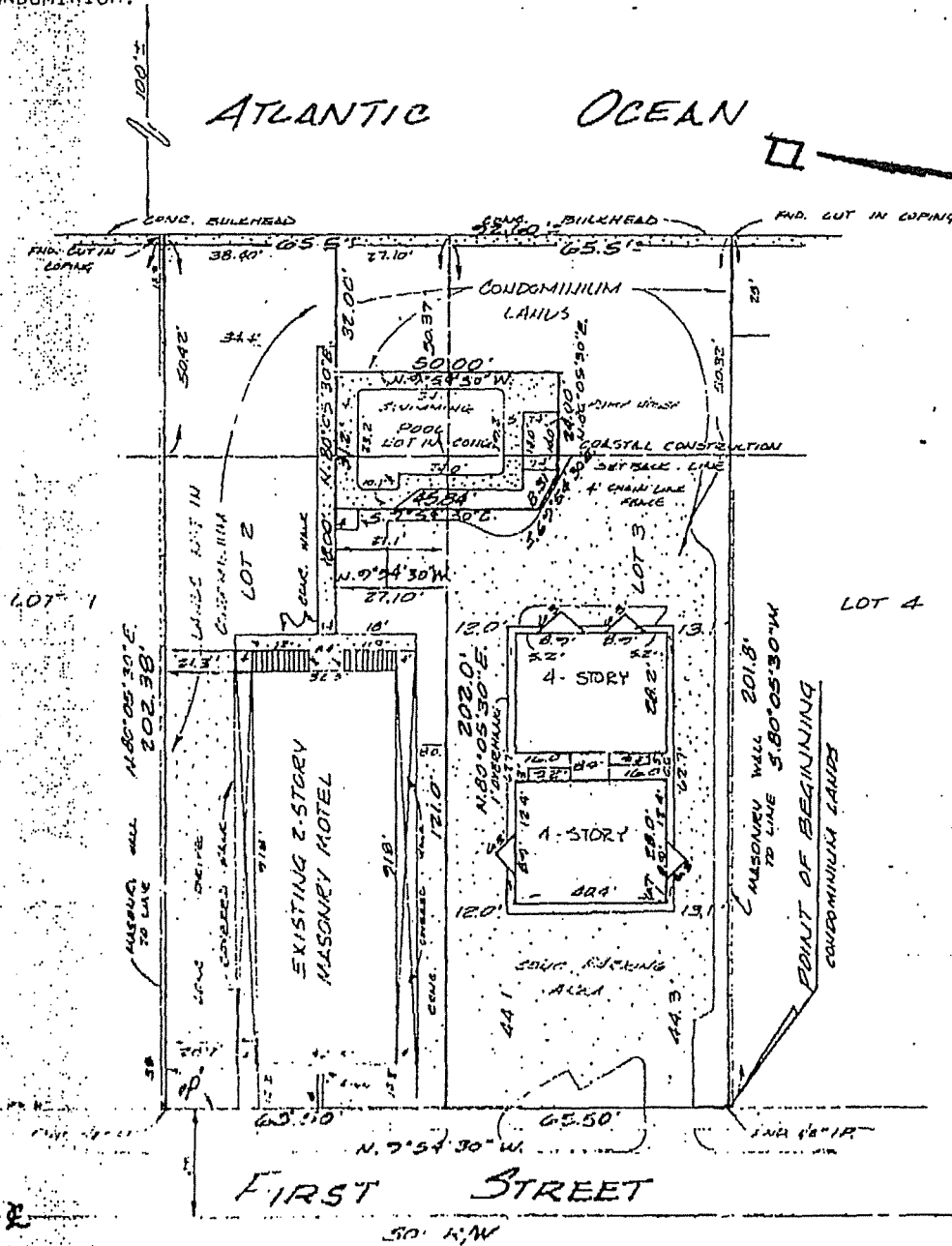
FIRST FLOOR	-	FINISHED FLOOR ELEVATION	19.71'
		CEILING ELEVATION	27.76'
SECOND FLOOR	-	FINISHED FLOOR ELEVATION	29.01'
		CEILING ELEVATION	36.86'
THIRD FLOOR	-	FINISHED FLOOR ELEVATION	38.03'
		CEILING ELEVATION	45.83'

This condominium is a four story building where the ground floor contains the partially covered parking spaces and covered storage facilities. There are no condominium units located on the ground floor.



OFFICIAL RECORDS MAP SHOWING SURVEY OF

LOTS 2 AND 3, BLOCK 41, PABLO BEACH AS RECORDED IN PLAT BOOK 3, PAGE 28 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, AND BEING PARTICULARLY DESCRIBED ON PAGES 6, 7 AND 8 AS LANDS CONSTITUTING CONDOMINIUM; LANDS CONSTITUTING POOL NOT UNDER CONDOMINIUM AND REMAINING LANDS NOT UNDER CONDOMINIUM.



I HEREBY CERTIFY TO THE BEST OF MY KNOWLEDGE THAT I HAVE SURVEYED THE LANDS AS SHOWN ON THE ABOVE MAP AND THAT THE SAME ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND THAT THE SURVEY REPRESENTED HEREON IS IN ACCORDANCE WITH THE PROVISIONS AND RULES ADOPTED BY THE FLORIDA SOCIETY OF PROFESSIONAL LAND SURVEYORS AND THE FLORIDA LAND RULE ASSOCIATION.

PREPARED JANUARY 21, 1988
 SIGNED MARCH 10, 1988
 SCALE: 1" = 50'
 AMENDING SURV. 10, 1986

Donn W. Boatwright
 DONN W. BOATWRIGHT

FLORIDA REGISTERED LAND SURVEYOR No. 3295

DONN W. BOATWRIGHT LAND SURVEYOR, 48 PENMAN ROAD SOUTH
 JACKSONVILLE, FLORIDA

Donn W. Boatwright

Land Surveyor

48 Penman Road South

Jacksonville Beach, Florida 32250

(904) 241-8550

March 16, 1983

VOL 5649 PG 2190

OFFICIAL RECORDS

LEGAL DESCRIPTION

FOR: BEACHCOMBER
CONDOMINIUM LANDS

A PART OF:

LOT 3 AND A PART OF LOT 2, BLOCK 4-1, PABLO BEACH SOUTH AS SHOWN ON PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGE 28 OF THE PRESENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF BEGINNING COMMENCE AT THE SOUTHWEST CORNER OF SAID LOT 3; THENCE NORTH $9^{\circ}54'30''$ WEST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF FIRST STREET (A 50-FOOT RIGHT-OF-WAY AS NOW ESTABLISHED), A DISTANCE OF 65.50 FEET TO THE NORTHERLY LINE OF SAID LOT 3; THENCE NORTH $60^{\circ}05'30''$ EAST ALONG SAID NORTH LINE OF LOT 3, A DISTANCE OF 121.00 FEET; THENCE NORTH $9^{\circ}54'30''$ WEST, A DISTANCE OF 27.10 FEET; THENCE NORTH $80^{\circ}05'30''$ EAST A DISTANCE OF 18.00 FEET; THENCE SOUTH $9^{\circ}54'30''$ EAST, A DISTANCE OF 45.84 FEET; THENCE SOUTH $69^{\circ}54'30''$ EAST, A DISTANCE OF 8.31 FEET; THENCE NORTH $80^{\circ}05'30''$ EAST, A DISTANCE OF 24.00 FEET; THENCE NORTH $9^{\circ}54'30''$ WEST, A DISTANCE OF 50.00 FEET; THENCE NORTH $80^{\circ}05'30''$ EAST, A DISTANCE OF 32.00 FEET TO THE EAST FACE OF A CONCRETE BULKHEAD; THENCE SOUTH ALONG SAID EAST FACE OF BULKHEAD, A DISTANCE OF 92.60 FEET MORE OR LESS TO THE SOUTH LINE OF SAID LOT 3; THENCE SOUTH $80^{\circ}05'30''$ WEST, ALONG SAID SOUTH LINE OF LOT 3, A DISTANCE OF 201.30 FEET TO THE POINT OF BEGINNING.



Donn W. Boatwright

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March 16, 1983

Vol. 5649 Pg. 2191
OFFICIAL RECORDS

LEGAL DESCRIPTION

SWIMMING POOL LANDS
NOT IN CONDOMINIUM

A PART OF LOTS 2 AND 3, BLOCK 41, PABLO BEACH AS RECORDED IN PLAT BOOK 3, PAGE 28 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF REFERENCE COMMENCE AT THE NORTHWEST CORNER OF SAID LOT 3; THENCE NORTH 80°05'30" EAST ALONG A LINE COMMON TO LOTS 2 AND 3, A DISTANCE OF 121.00 FEET; THENCE NORTH 9°54'30" WEST, A DISTANCE OF 27.10 FEET; THENCE NORTH 80°05'30" EAST, A DISTANCE OF 18.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 80°05'30" EAST, A DISTANCE OF 31.20 FEET; THENCE SOUTH 9°54'30" EAST, A DISTANCE OF 50.00 FEET; THENCE SOUTH 80°05'30" WEST, A DISTANCE OF 24.00 FEET; THENCE NORTH 69°54'30" WEST, A DISTANCE OF 8.31 FEET; THENCE NORTH 9°54'30" WEST, A DISTANCE OF 45.84 FEET TO THE POINT OF BEGINNING

Donn W. Boatwright

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48 Penman Road South

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OFFICIAL RECORDS

March 16, 1983

LEGAL DESCRIPTION

FOR: BEACHCOMBER

OTHER LANDS NOT IN CONDOMINIUM

A PART OF LOT 2, BLOCK 41, PABLO BEACH SOUTH AS SHOWN ON PLAT
RECORDED IN PLAT BOOK 3, PAGE 28, OF THE CURRENT PUBLIC
RECORDS OF DUVAL COUNTY, FLORIDA AND BEING MORE PARTICULARLY
DESCRIBED AS FOLLOWS: FOR A POINT OF BEGINNING COMMENCE AT THE
NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 80°05'30" EAST ALONG
THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 202.38 FEET TO THE EAST
FACE OF A CONCRETE BULKHEAD; THENCE SOUTH ALONG SAID EAST FACE OF
BULKHEAD, A DISTANCE OF 38.40 FEET; THENCE SOUTH 80°05'30" WEST, A
DISTANCE OF 81.20 FEET; THENCE SOUTH 9°54'30" EAST, A DISTANCE OF
27.10 FEET TO THE SOUTH LINE OF SAID LOT 2; THENCE SOUTH 80°05'30"
WEST ALONG SAID SOUTH LINE OF LOT 2, A DISTANCE OF 121.00 FEET TO
THE EASTERLY RIGHT-OF-WAY LINE OF FIRST STREET (A 50-FOOT RIGHT-OF-
WAY NOW ESTABLISHED); THENCE NORTH 9°54'30" WEST ALONG SAID
EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 65.30 FEET TO THE POINT
OF BEGINNING.



WJR

EXHIBIT A

Donn W. Boatwright

Land Surveyor

48 Penman Road South

Jacksonville Beach, Florida 32250

(904) 241-8550

Vol 5649 pg 2222

OFFICIAL RECORDS

March 16, 1983

LEGAL DESCRIPTION

FOR: BEACHCOMBER
CONDOMINIUM LANDS

A PART OF:

LOT 3 AND A PART OF LOT 2, BLOCK 41, PABLO BEACH SOUTH AS

SHOWN ON PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGE 28 OF THE

GENERAL PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA AND BEING MORE

PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF BEGINNING

COMMENCE AT THE SOUTHWEST CORNER OF SAID LOT 3; THENCE NORTH

9°54'30" WEST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF FIRST STREET

(A 50-FOOT RIGHT-OF-WAY AS NOW ESTABLISHED), A DISTANCE OF 65.50 FEET

TO THE NORTHERLY LINE OF SAID LOT 3; THENCE NORTH 00°05'30" EAST ALONG

SAID NORTH LINE OF LOT 3, A DISTANCE OF 121.00 FEET; THENCE NORTH 9°

54'30" WEST, A DISTANCE OF 27.10 FEET; THENCE NORTH 90°05'30" EAST A

DISTANCE OF 18.00 FEET; THENCE SOUTH 9°54'30" EAST, A DISTANCE OF 45.84

FEET; THENCE SOUTH 69°54'30" EAST, A DISTANCE OF 8.31 FEET; THENCE NORTH

80°05'30" EAST, A DISTANCE OF 24.00 FEET; THENCE NORTH 9°54'30" WEST, A

DISTANCE OF 50.00 FEET; THENCE NORTH 80°05'30" EAST, A DISTANCE OF 32.00

FEET TO THE EAST FACE OF A CONCRETE BULKHEAD; THENCE SOUTH ALONG SAID

EAST FACE OF BULKHEAD, A DISTANCE OF 22.60 FEET MORE OR LESS TO THE

SOUTH LINE OF SAID LOT 3; THENCE SOUTH 80°05'30" WEST, ALONG SAID SOUTH

LINE OF LOT 3, A DISTANCE OF 201.80 FEET TO THE POINT OF BEGINNING.

83- 34872

MAY 17 2 46 PM '83