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BOOK PAGE

EXHIBITS "B" AND "C"

ATTACHMENT TO DECLARATION OF CONDOMINIUM  
KNOWN:

WATERMARK

AS ESTABLISHED BY VIRTUE OF DECLARATION  
FILED JANUARY 11, 1980 IN OFFICIAL RECORDS  
BOOK 2136 PAGE 1384 OF THE PUBLIC RECORDS  
OF VOLUSIA COUNTY, FLORIDA:

022133

Mar 19 10 18 AM '80

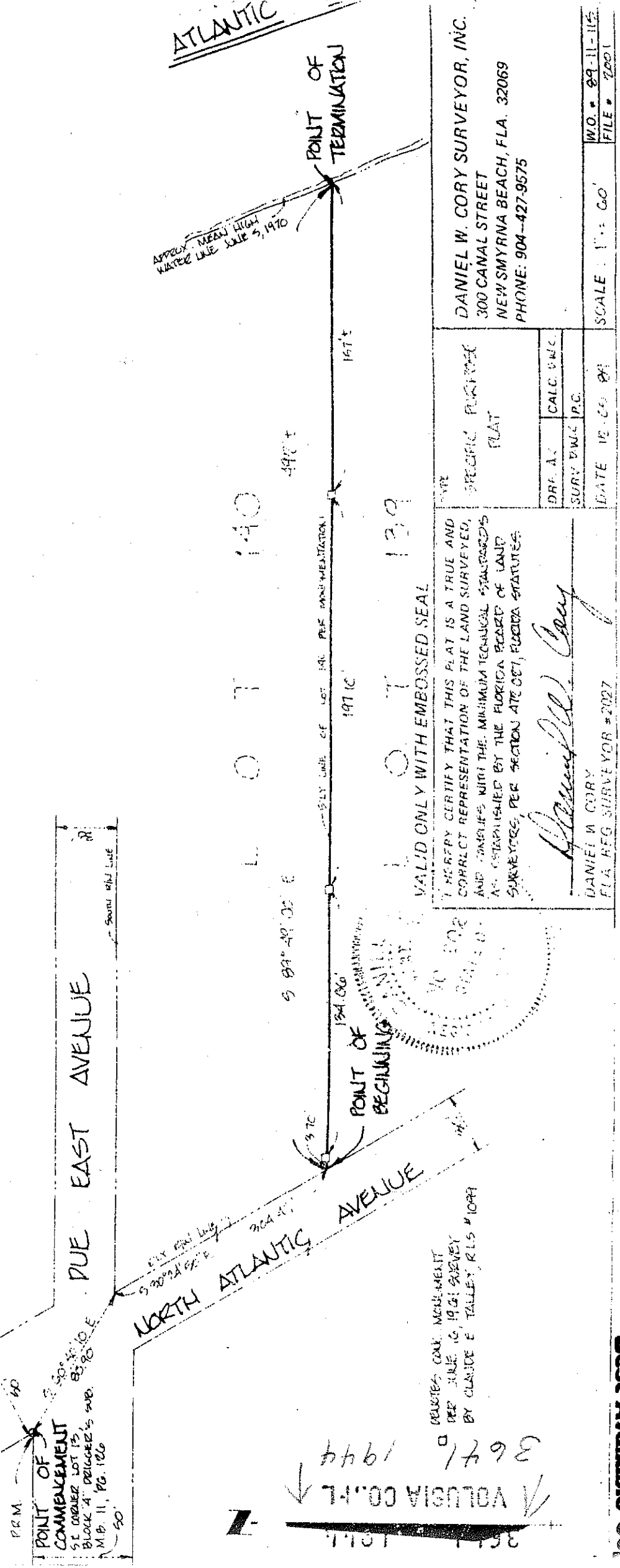
FILED FOR RECORD  
RECORD VERIFIED  
*[Signature]*  
CLERK OF COUNTY, FLA.

SPECIFIC PURPOSE PLAT

Describing the Southerly line of Lot 140 as monumented, Assessor's Subdivision of the Robert Walker Grant, as recorded in Map Book 3, page 150 of the Public Records of Volusia County, Florida being described as follows: As a point of reference commence at a PRM marking the Southeast corner of Lot 13, Block 4, Driggers Subdivision as recorded in Map Book 11, page 126 of the Public Records of Volusia County, Florida; thence S 60° 40' 10" E, a distance of 80.90 feet to the intersection of the Easterly line of North Atlantic Avenue a 30 foot R/W as now laid out and the Southerly line of Due East Avenue a 30 foot R/W as now laid out; thence S 30° 24' 50" E along the said easterly line of North Atlantic Avenue a distance of 304.47 feet to the Westerly prolongation of the Southerly line of Lot 140, said Robert Walker Grant as monumented for the Point of Beginning; thence S 89° 49' 00" E along the said monumented line, a distance of 492 feet more or less to the mean high water line of the Atlantic Ocean and for the Point of Termination.

SURVEYOR'S NOTES:

- 1. Legal description prepared by the undersigned.
- 2. Bearings are assumed and refer to the South line of Due East Avenue as being N 89° 14' 30" E.
- 3. The purpose of this plat is to describe the Southerly line of Lot 140, Assessor's Subdivision of the Robert Walker Grant.



ATLANTIC

POINT OF TERMINATION

POINT OF BEGINNING

DUE EAST AVENUE

NORTH ATLANTIC AVENUE

DANIEL W. CORY SURVEYOR, INC.  
300 CANAL STREET  
NEW SMYRNA BEACH, FLA. 32069  
PHONE: 904-427-9575

DATE	12-20-2027
SCALE	1" = 60'
W.O.	89-11-115
FILE	2201

VALID ONLY WITH EMBOSSED SEAL

I HEREBY CERTIFY THAT THIS PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE LAND SURVEYED, AND COMPLES WITH THE MINIMUM TECHNICAL STANDARDS AS ESTABLISHED BY THE FLORIDA BOARD OF LAND SURVEYORS, PER SECTION 47.02, FLORIDA STATUTES.

*Daniel W. Cory*  
DANIEL W. CORY  
FLA. REG. SURVEYOR #2027

REPLACES CO. MONUMENT  
PER JULY 12, 1961 SURVEY  
BY CLAUDE E. TALLEY, R.L.S. #1044

3641  
7400 VICTORIA

BEST AVAILABLE

WHEREFORE, it is thereby

ORDERED and ADJUDGED that the boundary line between Lot 139 and Lot 140 of the Assessor's Subdivision of the Robert Walker Grant, as per plat thereof recorded in Map Book 3, page 150, shall be as shown on the attached survey prepared by Daniel W. Cory Surveyor, Inc., which survey comports to the line previously described as the "monumented south line of Lot 140".

Having found for plaintiff, the Court will tax costs and appropriate attorney's fees against the defendants at a subsequent hearing.

DONE and ORDERED in Chambers at the Volusia County Courthouse Annex, Daytona Beach, Florida, this 31 day of May, 1991.

C. McFerrin Smith Jr.  
Circuit Judge

cf: Benjamin F. Wren, III, Esq.  
P.O. Box 2916  
DeLand, FL 32723-2916

Frank A. Ford, Jr., Esq.  
P.O. Box 48  
DeLand, FL 32721

M. Jennifer Moorhead, Esq.  
P.O. Box 2229  
Daytona Beach, FL 32115

William L. Ross, Jr., Esq.  
P.O. Box 1266  
New Smyrna Beach, FL 32170-1266

3541

1941

VOLUSIA CO., FL

## IN THE CIRCUIT COURT FOR VOLUSIA COUNTY, FLORIDA

CASE NO.: 88-2502-CA-01  
DIVISION: D

401 MANAGEMENT, INC.,

Plaintiff,

vs.

OSCAR F. JUAREZ, et al.,

Defendants.

AMENDED FINAL JUDGMENT FOR PLAINTIFF

This cause having come on for trial before the Court during the period October 11-12, 1989, and the Court, having heard the testimony of the witnesses, both in person and by deposition of expert witnesses, examined the evidence introduced which included information concerning the chain of title and multiple surveys, and heard the argument of counsel, makes the following findings of fact:

1. The present boundary line dispute between the parties appears to have had its origin with the series of deeds out of an early owner of the entire parcel within which the present controversy exists. This owner, Savila Alden, owned approximately 630 feet of land, but in apparent ignorance of the true size of her parcel, only conveyed 600 feet of it, via a series of deeds to parcels contiguous to one another, and measured uniformly from the south, with the exception of the last deed in 1904 which was measured from the north.

2. The original surveyor who surveyed the boundary line

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VOLUSIA CO., FL

between Lot 139 and 140 set concrete monuments defining that line.

3. All surveyors since that time have recognized the significance of these concrete monuments as treating the line created thereby as either the "monumented south line of Lot 140", or as the south line of Lot 140.

4. There are not two south lines to Lot 140, one being the line measured the plat distance from the north, and the other the "monumented south line of Lot 140", but only one such line.

5. Additionally, the location of the concrete bulkhead line of Lot 139 which is located in close proximity to the monumented south line of Lot 140, and the actions of plaintiff in erecting and maintaining a wooden fence in the vicinity of the monumented south line of Lot 140, reflect a pattern of use by the parties and their predecessors in title that supports the recognition of the monumented south line of Lot 140 as the property boundary line.

6. The condominium developer placed all of Lot 140 in the condominium, and such verbal description takes priority over any survey plat distance to the contrary. If the developer desired to retain everything in excess of 250 feet of oceanfront land, it was incumbent upon him to do so by describing the property placed in the condominium by a metes and bounds description.

7. The analysis of Professor David W. Gibson, and expert witness presented by plaintiff, was generally accepted by the Court on the surveying issues of this case.

VOLUSIA CO., FL

## General Affidavit

State of Florida,

County of Volusia

Before the undersigned, an officer duly commissioned by the laws of Florida, on this

26th day of January, 1992, personally appeared

Peter D. Goldish

who having been first duly sworn depose and say:

That: 401 MANAGEMENT INC. (a not for profit corporation in the State of Florida), was created to manage the common elements and the affairs of WATERMARK CONDOMINIUM, located at 401 N. Atlantic Ave., New Smyrna Beach Fl. 32169.

That: WATERMARK CONDOMINIUM and 401 MANAGEMENT INC. are the same entities as was recorded in the Declaration of Condominium filed by Griffen Funding Inc., on Jan. 7, 1980 in BOOK 2136, PAGE 1427, as referred on page 1 & 2 of the Declaration of Condominium of public records of Volusia County, Florida.

That: the legal description of real property of Watermark Condominium is files as:

LOTS 140 & 141 Assessor's Subdivision of the Robert Walker Grant as shown in Map Book 3, Page 150 of the Public Records of Volusia County, Florida.

That: the Articles of Incorporation and the By-Laws of 401 Management Inc., are also recorded in Book 2136, Page 1427, Volusia County, Florida.

That: the attached Final Judgment for the Plaintiff, and the survey dated 12/5/89 of Lots 140 and 141 as newly awarded in this judgment are relating to 401 Management Inc., without reference to Watermark Condominium, as filed in BOOK 3399, Page 0065, Volusia County, Florida, on Dec. 11, 1989 under the name of 401 Management Inc., where in fact the Declaration, Articles and By-Laws are filed under Watermark Condominium, not 401 Management Inc.

That: this inconsistency confuses the searching party/or parties having no reference to the other name, thus making any search incomplete.

That: it is the intent of this affidavit to make clear that both these names are one and the same and refer to the same properties and entities, and are related to each other in all other's documents and therefore would wish that all 401 Management documents be filed under Watermark Condominium as was the original documents, thus making future record searches more complete.

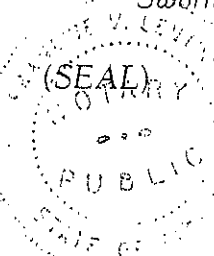
Peter D. Goldish, Pres.

Clarence J. Chappell, V.P.

Sworn to and subscribed before me this 28 day of January, A. D. 1992

NOTARY PUBLIC, STATE OF FLORIDA.  
MY COMMISSION EXPIRES: DEC. 27, 1992.  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

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CLERK OF THE CIRCUIT  
& COUNTY COURT VOLUSIA CO., FL.



SPECIFIC PURPOSE PLAT

LEGAL DESCRIPTION: Lots 140 and 141, Assessor's Subdivision of the Robert Walker Grant as recorded in Map Book 3, page 150 of the Public Records of Volusia County, Florida and being more particularly described as follows: As a point of reference commence at a PRM marking the southeast corner of Lot 13, Block 4, Drigger's Subdivision, as shown on map in Map book 11, page 126 of the Public Records of Volusia County, Florida; thence S 60° 40' 10" E, a distance of 80.90 feet to the intersection of the Easterly line of North Atlantic Avenue a 30 foot R/W as now laid out and the southerly line of Due East Avenue a 30 foot R/W as now laid out and for the Point of Beginning; thence S 30° 24' 50" E along the said Easterly line of North Atlantic Avenue a distance of 304.47 feet to the Westerly prolongation of the Southerly line of said Lot 140 as now monumented; thence S 89° 49' 00" E along the said Southerly line of Lot 140 as now monumented a distance of 492 feet more or less to the mean high water line of the Atlantic Ocean; thence Northwesterly along the said mean high water line a distance of 294 feet more or less to the Easterly prolongation of the southerly line of Due East Avenue; thence S 89° 14' 30" W along the southerly line of said Due East Avenue a distance of 533 feet to the Point of Beginning.

SURVEYOR'S NOTES:

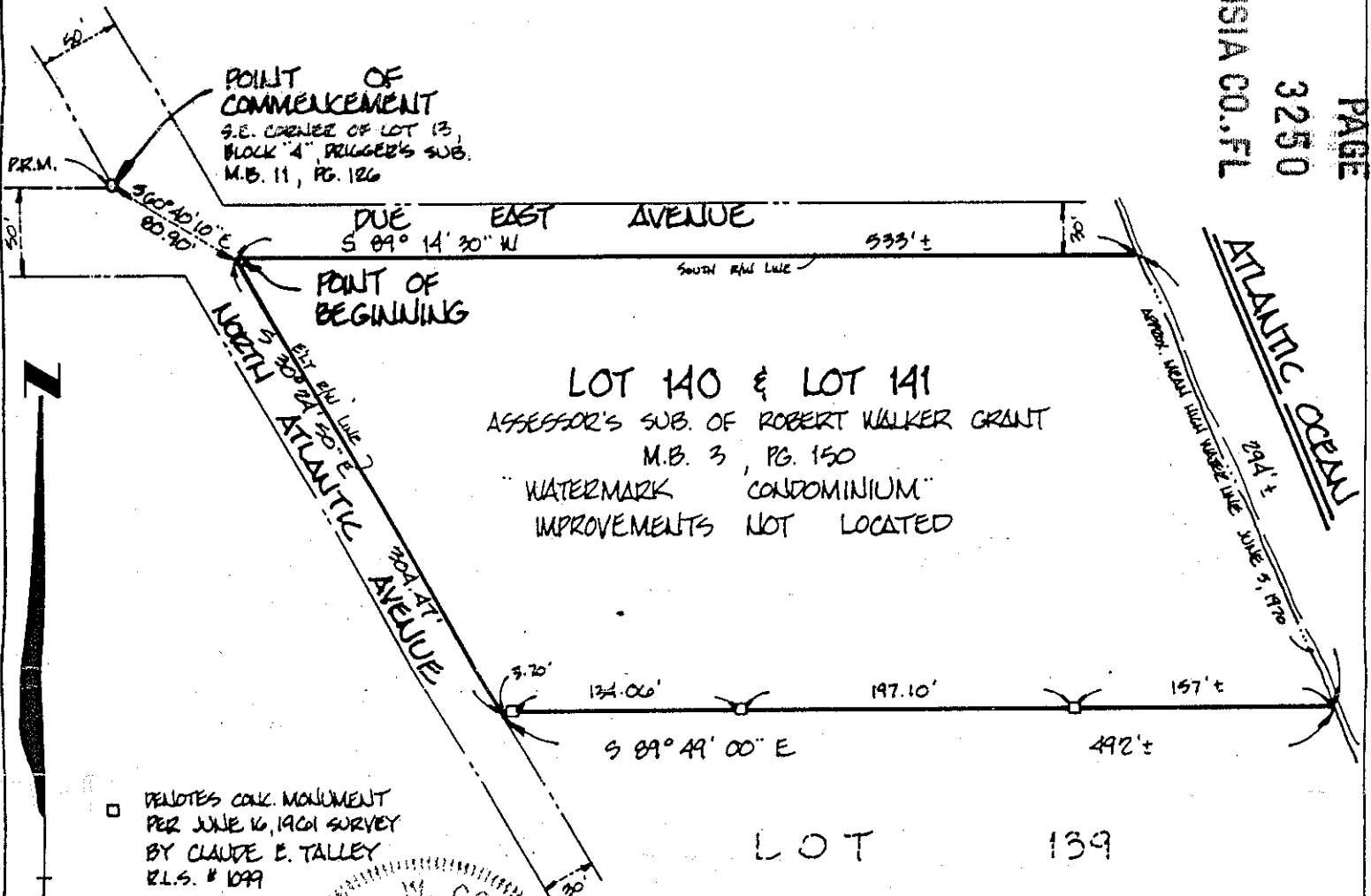
1. Legal description prepared by the undersigned.
2. Bearings are assumed and refer to the South line of Due East Avenue as being N 89° 14' 30" E.
3. The specific purpose of this plat is to describe by metes and bounds Lots 140 and 141 as requested by Bill Alexander of the Watermark Condominium.
4. This plat prepared without the benefit of an abstract and no title work has been performed or provided to this surveyor.

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BOOK

PAGE

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VOLUSIA CO., FL



VALID ONLY WITH EMBOSSED SEAL

The foregoing plat is certified to meet the minimum technical standards as established by the Florida Board of Land Surveyors, Chapter 472.027, Florida Statutes.

TYPE:

SPECIFIC PURPOSE  
PLAT

DANIEL W. CORY SURVEYOR, INC.  
300 CANAL STREET  
NEW SMYRNA BEACH, FLA. 32069  
PHONE: 904-427-9575

DRF. A.C. CALC. D.W.C.

SURV. D.W.C. P.C. -

DATE: 12-04-89

SCALE: 1" = 100'

W.O. # 89-12-022  
FILE # 2001

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DANIEL W. CORY  
FLA. REG. SURVEYOR #2027

BOOK PAGE  
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VOLUSIA CO., FL

IN THE CIRCUIT COURT, SEVENTH  
JUDICIAL CIRCUIT, IN AND FOR  
VOLUSIA COUNTY, FLORIDA

CASE NO. 88-2502-CA-01  
DIVISION D

FILED  
DEC 11 89

401 MANAGEMENT, INC.,  
Plaintiff,

vs.

OSCAR F. JUAREZ, et al.,  
Defendants.

FINAL JUDGMENT FOR PLAINTIFF

This cause having come on for trial before the Court during the period October 11-12, 1989, and the Court, having heard the testimony of the witnesses, both in person and by deposition of expert witnesses, examined the evidence introduced which included information concerning the chain of title and multiple surveys, and heard the argument of counsel, makes the following findings of fact:

1. The present boundary line dispute between the parties appears to have had its origin with the series of deeds out of an early owner of the entire parcel within which the present controversy exists. This owner, Savila Alden, owned approximately 630 feet of land, but in apparent ignorance of the true size of her parcel, only conveyed 600 feet of it, via a series of deeds to parcels contiguous to one another, and measured uniformly from the south, with the exception of the last deed in 1904 which was measured from the north.

2. The original surveyor who surveyed the boundary line between Lot 139 and Lot 140 set concrete monuments defining that line.

3. All surveyors since that time have recognized the significance of these concrete monuments as treating the line created thereby as either the "monumented south line of Lot 140", or as the south line of Lot 140.

4. There are not two south lines to Lot 140, one being the line measured the plat distance from the north, and the other the "monumented south line of Lot 140", but only one such line.

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VOLUSIA CO., FL

IN THE CIRCUIT COURT, SEVENTH  
JUDICIAL CIRCUIT, IN AND FOR  
VOLUSIA COUNTY, FLORIDA

CASE NO. 88-2502-CA-01  
DIVISION D

401 MANAGEMENT, INC.,  
Plaintiff,

vs.

OSCAR F. JUAREZ, et al.,  
Defendants.

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CLERK OF COURT  
VOLUSIA COUNTY, FLORIDA

FINAL JUDGMENT FOR PLAINTIFF

This cause having come on for trial before the Court during the period October 11-12, 1989, and the Court, having heard the testimony of the witnesses, both in person and by deposition of expert witnesses, examined the evidence introduced which included information concerning the chain of title and multiple surveys, and heard the argument of counsel, makes the following findings of fact:

1. The present boundary line dispute between the parties appears to have had its origin with the series of deeds out of an early owner of the entire parcel within which the present controversy exists. This owner, Savila Alden, owned approximately 630 feet of land, but in apparent ignorance of the true size of her parcel, only conveyed 600 feet of it, via a series of deeds to parcels contiguous to one another, and measured uniformly from the south, with the exception of the last deed in 1904 which was measured from the north.

2. The original surveyor who surveyed the boundary line between Lot 139 and Lot 140 set concrete monuments defining that line.

3. All surveyors since that time have recognized the significance of these concrete monuments as treating the line created thereby as either the "monumented south line of Lot 140", or as the south line of Lot 140.

4. There are not two south lines to Lot 140, one being the line measured the plat distance from the north, and the other the "monumented south line of Lot 140", but only one such line.

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DECLARATION OF CONDOMINIUM

KNOW ALL MEN BY THESE PRESENTS:

GRIFFIN FUNDING, INC.,

a Florida Corporation,

does make, declare and establish this Declaration of Condominium as and for the plan of dwelling, ownership and condominium for the Condominium hereinafter described. For the sake of simplicity, the Declaror will at all times be referred to in the singular person and neuter gender.

I

ESTABLISHMENT OF CONDOMINIUM

Declaror hereby submits the following condominium property to condominium ownership:

LOTS 140 and 141, Assessor's Subdivision of the Robert Walker Grant as shown on Map in Map Book 3, Page 150 of the Public Records of Volusia County, Florida.

All of the terms, conditions, covenants, provisions and agreements which are shown and set forth in the various exhibits which are annexed hereto as well as the exhibits themselves are expressly made a part of this Declaration as though set forth in full herein.

The name by which the Condominium hereby created is to be identified is:

WATERMARK, A CONDOMINIUM

002767

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WATERMARK CONDOMINIUM

The name of the association is: 401 MANAGEMENT, INC.  
a Florida Corporation not for profit.

Each unit is identified by number on Exhibit "A" to this Declaration,  
and no unit bears the same designation as any other unit.

## II

SURVEY AND DESCRIPTION OF IMPROVEMENTS

Annexed hereto and expressly made a part hereof as Exhibit "A", consisting  
of Seven(7) pages, filed in Map Book 36, Page 104, To 110 with  
is a survey of the land and graphic description and  
plot plans of the improvements constituting the CONDOMINIUM, and further  
identifying the PRIVATE DWELLINGS, COMMON PROPERTY and LIMITED COMMON  
PROPERTY, as said terms are hereinafter defined, and their respective  
locations and approximate dimensions. Each PRIVATE DWELLING is identified  
by specific number on said Exhibit "A", and no Private Dwelling bears the  
same designation as any other Private Dwelling. Similarly, each space  
room and area constituting LIMITED COMMON PROPERTY is identified by  
specific number on said Exhibit "A", and no space room or area constituting  
a part of said LIMITED COMMON PROPERTY bears the same designation as any  
other

## III

PRIVATE DWELLINGS, COMMON PROPERTY AND LIMITED COMMON PROPERTY

The CONDOMINIUM consists of PRIVATE DWELLINGS, COMMON PROPERTY AND LIMITED  
COMMON PROPERTY, as said terms are hereinafter defined.

PRIVATE DWELLINGS, as the term is used herein, shall mean and comprise the separate and numbered Dwelling Units which are designated in Exhibit "A" to this Declaration of Condominium, excluding, however, all spaces and improvements lying beneath the undecorated and/or unfinished inner surfaces of the perimeter walls and floors, and above the undecorated and/or unfinished inner surfaces of the ceilings of each Dwelling Unit, and further excluding all spaces and improvements lying beneath the undecorated and/or unfinished inner surfaces of all interior bearing walls and/or bearing partitions, and further excluding all pipes, ducts, wires, conduits and other facilities running through any interior wall or partition for the furnishing of utility services to PRIVATE DWELLINGS AND COMMON PROPERTY. Where there is attached to or abutting the building a porch or balcony, serving only the apartment abutting such porch or balcony, the boundary of the PRIVATE DWELLING shall be extended so as to include within it that part of such porch or balcony lying within the extension of the vertical or horizontal boundaries of the said PRIVATE DWELLING, as above expressed.

ADDITION 12/14/07

COMMON PROPERTY, as the term is used herein, shall mean and comprise all of the real property, improvements, and facilities of the CONDOMINIUM other than the PRIVATE DWELLINGS, as the same are herein defined, and shall include easements through PRIVATE DWELLINGS for conduits, pipes, ducts, plumbing, wiring and other facilities for the furnishing of utility service to PRIVATE DWELLINGS AND COMMON PROPERTY and easements of support in every portion of a PRIVATE DWELLING which contributes to the support of the improvements, and shall further include all personal property held and maintained for the joint use and enjoyment of all of the owners of all such PRIVATE DWELLINGS.

SEE

ATTACHED

LIMITED COMMON PROPERTY, as the term is used herein, shall mean and comprise that portion of the COMMON PROPERTY consisting of the number of separate and designated spaces, rooms and areas specifically identified on

Exhibit "A" hereto attached, as to each of which said spaces, rooms and areas a right of exclusive use may be reserved as an appurtenance to a particular PRIVATE DWELLING, as hereinafter described.

## IV

OWNERSHIP OF PRIVATE DWELLINGS AND  
APPURTENANT INTEREST IN COMMON PROPERTY

Each PRIVATE DWELLING shall be conveyed and treated as an individual property capable of independent use and fee simple ownership, and the owner or owners of each said PRIVATE DWELLING shall own, as an appurtenance to the ownership of each said PRIVATE DWELLING, an undivided interest in the COMMON PROPERTY, together with the same undivided interest in the COMMON SURPLUS, being that which is hereinafter specifically assigned thereto. The percentage of undivided interest in the COMMON PROPERTY assigned to each PRIVATE DWELLING SHALL not be changed except with the unanimous consent of all of the owners of the PRIVATE DWELLINGS.

## V

RESTRICTION AGAINST FURTHER SUBDIVIDING  
OF PRIVATE DWELLINGS AND SEPARATE  
CONVEYANCE OF APPURTENANT COMMON PROPERTY, ETC.

No PRIVATE DWELLING may be divided or subdivided into a smaller Dwelling Unit than as shown on Exhibit "A" hereto, nor shall any further dwelling, or portion thereof, be added to or incorporated into any other PRIVATE DWELLING. The undivided interest in the COMMON PROPERTY declared to be an appurtenance to each PRIVATE DWELLING shall not be conveyed, devised, encumbered or otherwise dealt with separately from said PRIVATE DWELLING.

and the undivided interest in COMMON PROPERTY appurtenant to each PRIVATE DWELLING shall be deemed conveyed, devised, encumbered or otherwise included with the PRIVATE DWELLING even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such PRIVATE DWELLING. Any conveyance, mortgage, or other instrument which purports to affect the conveyance, devise or encumbrance, or which purports to grant any right, interest or lien in, to or upon, a Private Dwelling, shall be null, void and of no effect insofar as the same purports to affect any interest in a PRIVATE DWELLING and its appurtenant undivided interest in COMMON PROPERTY, unless the same purports to convey, devise, encumber or otherwise trade or deal with the entire PRIVATE DWELLING. Any instrument conveying, devising, encumbering or otherwise dealing with any PRIVATE DWELLING which describes said PRIVATE DWELLING by the PRIVATE DWELLING UNIT NUMBER assigned thereto in Exhibit "A" without limitation or exception shall be deemed and construed to affect the entire PRIVATE DWELLING and its appurtenant undivided interest in the COMMON PROPERTY. Nothing herein contained shall be construed as limiting or preventing ownership of any PRIVATE DWELLING and its appurtenant undivided interest in the COMMON PROPERTY by more than one person or entity as tenants in common, joint tenants, or as tenants by the entirety.

## VI

CONDOMINIUM SUBJECT TO RESTRICTIONS, ETC.

The PRIVATE DWELLINGS, COMMON PROPERTY and LIMITED COMMON PROPERTY shall be, and the same are hereby declared to be subject to the restrictions, easements, conditions and covenants prescribed and established herein, as well as those established by the condominium corporation charter, by-laws and the rules and regulations now or hereafter promulgated, governing the use of said PRIVATE DWELLINGS, COMMON PROPERTY and LIMITED COMMON PROPERTY.

## VII

PERPETUAL NON-EXCLUSIVE EASEMENT IN COMMON PROPERTY

The COMMON PROPERTY shall be, and the same is hereby declared to be subject to a perpetual non-exclusive easement in favor of all of the owners of PRIVATE DWELLINGS in the CONDOMINIUM for their use and the use of their immediate families, guests and invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of said owners of PRIVATE DWELLINGS.

## VIII

EASEMENT FOR UNINTENTIONAL AND NON-NEGLIGENT ENCROACHMENTS

In the event that any PRIVATE DWELLING shall encroach upon any COMMON PROPERTY for any reason not caused by the purposeful or negligent act of the PRIVATE DWELLING owner or owners or agents of such owner or owners, then an easement appurtenant to such PRIVATE DWELLING shall exist for the continuance of such encroachment unto the COMMON PROPERTY for so long as such encroachment shall naturally exist; and, in the event that any portions of the COMMON PROPERTY shall encroach upon any PRIVATE DWELLING, then an easement shall exist for the continuance of such encroachment of the COMMON PROPERTY into any PRIVATE DWELLING for so long as such encroachment shall naturally exist.

## IX

RESTRAINT UPON SEPARATION AND PARTITION OF COMMON PROPERTY

Recognizing that the proper use of a PRIVATE DWELLING by any owner or owners is dependent upon the use and enjoyment of the COMMON PROPERTY in common with



the owners of all other PRIVATE DWELLINGS, and that it is the interest of all owners of PRIVATE DWELLINGS that the ownership of the COMMON PROPERTY be retained in common by the owners of PRIVATE DWELLINGS in the CONDOMINIUM, it is declared that the percentage of the undivided interest in COMMON PROPERTY appurtenant to each PRIVATE DWELLING shall remain undivided and no owner of any PRIVATE DWELLING shall remain undivided and no owner of any PRIVATE DWELLING shall bring or have any right to bring any action for partition or division.

X

PERCENTAGE OF UNDIVIDED INTEREST IN COMMON  
PROPERTY APPURTENANT TO EACH PRIVATE DWELLING

The undivided interest in COMMON PROPERTY appurtenant to each PRIVATE DWELLING one one-thirty-sixth (1/36). . Likewise, each PRIVATE DWELLING shall have appurtenant thereto an undivided interest in the LIMITED COMMON PROPERTY in the same percentage as there is appurtenant thereto an undivided interest in the COMMON PROPERTY, subject however, to the exclusive right of use in LIMITED COMMON PROPERTY which may be assigned as an appurtenance to a particular PRIVATE DWELLING.

XI

EASEMENT FOR AIR SPACE

The owner of each PRIVATE DWELLING shall have an exclusive easement for the use of the air space occupied by said PRIVATE DWELLING as it exists at any particular time and as said PRIVATE DWELLING may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is vacated from time to time.



## XII

ADMINISTRATION OF THE CONDOMINIUM  
BY THE CONDOMINIUM ASSOCIATION

To efficiently and effectively provide for the administration of the CONDOMINIUM by the owners of PRIVATE DWELLINGS, a non-profit Florida corporation, known and designated as

401 MANAGEMENT, INC. .

has been organized, and said corporation shall administer the operation and management of the CONDOMINIUM and undertake and perform all acts and duties incident thereto in accordance with the terms, provisions and conditions of this Declaration of Condominium, and in accordance with the terms of the Articles of Incorporation and By-Laws of said corporation. A true copy of the Articles of Incorporation and By-Laws are annexed hereto and expressly made a part hereof as Exhibits "B" and "C" respectively. The owner or owners of each PRIVATE DWELLING shall automatically become members of the Association upon his, their or its acquisition of an ownership interest in title to any PRIVATE DWELLING and its appurtenant undivided interest in COMMON PROPERTY and LIMITED COMMON PROPERTY, and the membership of such owner or owners shall terminate automatically upon such owner or owners being divested of such ownership interest in the title of such PRIVATE DWELLING, regardless of the means by which such ownership may be divested. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any PRIVATE DWELLING shall be entitled, by virtue of such lien, mortgage or other encumbrance, to membership in the ASSOCIATION, or to any of the rights or privileges of such membership. In the administration of the operation and management of the CONDOMINIUM, said ASSOCIATION shall have and is hereby granted the authority and power to enforce the provisions of this Declaration of Condominium, levy and collect assessments in the manner hereinafter provided, and to adopt, promulgate and enforce such rules and regulations governing the use of the PRIVATE DWELLINGS,

COMMON PROPERTY and LIMITED COMMON PROPERTY as the Board of Directors of the ASSOCIATION may deem to be in the best interests of the CONDOMINIUM. The ASSOCIATION may not in any way impede or interfere with the right to the use of any LIMITED COMMON PROPERTY which has been exclusively assigned to any PRIVATE DWELLING owner.

## XII

RESIDENTIAL USE RESTRICTIONS  
APPLICABLE TO PRIVATE DWELLINGS

Each PRIVATE DWELLING is hereby restricted to residential use by the owner or owners thereof, their immediate families, guests and invitees. No owner or owners of any PRIVATE DWELLING shall permit use of the same for commercial purposes, but nothing contained herein shall prevent the owner or owners from leasing or renting the Private Dwelling.

*CHANGE - SEE ATTACHED*

## XIV

USE OF COMMON PROPERTY AND LIMITED  
COMMON PROPERTY SUBJECT TO RULES OF ASSOCIATION

Subject to the provisions hereinabove set forth in Article IX the use of COMMON PROPERTY by the owner or owners of all PRIVATE DWELLINGS, and all other parties authorized to use the same, and the use of LIMITED COMMON PROPERTY by the owner or owners entitled to use the same, shall be at all times subject to such reasonable rules and regulations as may be prescribed and established governing such use, or which may hereafter be prescribed and established by the ASSOCIATION.

## XV

THE CONDOMINIUM TO BE USED FOR LAWFUL  
PURPOSES, RESTRICTION AGAINST NUISANCES, ETC.

No immoral, improper, offensive or unlawful use shall be made of any PRIVATE DWELLING or of the use of the COMMON PROPERTY, or of the LIMITED COMMON PROPERTY, nor any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the CONDOMINIUM shall be observed. No owner of any PRIVATE DWELLING shall permit or suffer anything to be done or kept in his PRIVATE DWELLING, or on the COMMON PROPERTY, or on the LIMITED COMMON PROPERTY, which will increase the rate of insurance on the CONDOMINIUM, or which will obstruct or interfere with the rights of other occupants of the building or annoy them by unreasonable noises, nor shall any such owner undertake any use or practice which shall create and constitute a nuisance to any other owner of a PRIVATE DWELLING, or which interferes with the peaceful possession and proper use of any other PRIVATE DWELLING, or the COMMON PROPERTY or the LIMITED COMMON PROPERTY. The owners of each PRIVATE DWELLING shall not permit the hanging of garments, towels, linens, rugs, and the like, from any windows, balconies or facades of the CONDOMINIUM which such owners own or have the exclusive right to use. Only small pets kept under restraint are allowed in the common area.

## XVI

RIGHT OF ENTRY INTO PRIVATE  
DWELLINGS IN EMERGENCIES

In case of any emergency originating in or threatening any PRIVATE DWELLING, regardless of whether the owner is present at the time of such emergency,

the Board of Directors of the ASSOCIATION, or any other person authorized by it, or the building superintendent or managing agent, shall have the right to enter such PRIVATE DWELLING for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate, and to facilitate entry in the event of any such emergency, the owner of each PRIVATE DWELLING, if required by the ASSOCIATION, shall deposit under the control of the ASSOCIATION a key to such PRIVATE DWELLING.

## XVII

RIGHT OF ENTRY FOR MAINTENANCE OF COMMON PROPERTY

Whenever it is necessary to enter any PRIVATE DWELLING for the purpose of performing any maintenance, alteration or repair to any portion of the COMMON PROPERTY, or to go upon any LIMITED COMMON PROPERTY for such purpose, the owner of each PRIVATE DWELLING shall permit other owners or their representatives, or the duly constituted and authorized agent of the ASSOCIATION, to enter such PRIVATE DWELLING, or to go upon the LIMITED COMMON PROPERTY constituting an appurtenance to any such PRIVATE DWELLING, for such purpose, provided that such entry shall be made only at reasonable times and with reasonable advance notice.

## XVIII

LIMITATION UPON RIGHT OF OWNERS TOALTER AND MODIFY PRIVATE DWELLINGS

No owner of a PRIVATE DWELLING shall permit to be made any structural modifications or alterations in such PRIVATE DWELLING without first obtaining the written consent of the ASSOCIATION, which consent may be withheld in the event that a majority of the Board of Directors of said

Corporation determine, in their sole discretion, that such structural modifications or alterations would affect or in any manner endanger the building in part or in its entirety. If the modification or alteration desired by the owner of any PRIVATE DWELLING involves the removal of any permanent interior partition, the ASSOCIATION shall have the right to permit such removal so long as the permanent interior partition to be removed is not a load bearing partition, and so long as the removal thereof would in no manner affect or interfere with the provisions of utility services constituting COMMON PROPERTY located therein. No owner shall cause any improvements or changes to be made on the exterior of the building, including painting or other decoration, or the installation of electrical wiring, television antenna, machines or air conditioning units, which may protrude through the walls or roof of the building, or in any manner change the appearance of any portion of the building not within the walls of such PRIVATE DWELLING, without the written consent of the ASSOCIATION first being had and obtained.

## XIX

RIGHT OF ASSOCIATION TO ALTER AND  
IMPROVE PROPERTY AND ASSESSMENT THEREFOR

The ASSOCIATION shall have the right to make or cause to be made such alterations or improvements to the COMMON PROPERTY which do not prejudice the rights of the owner of any such PRIVATE DWELLING, provided the making of such alterations and improvements are approved by the Board of Directors of said ASSOCIATION and the cost of such alterations and improvements does not exceed \$2,000.00. Improvements and alterations costing in excess of \$2,000.00 shall not be made without the approval of the membership of the ASSOCIATION, evidenced by the affirmative vote of at least two-thirds (2/3) of the entire voting power of the membership of the ASSOCIATION acting at a meeting of the members duly called for such purpose. The cost of such

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alterations or improvements shall be assessed as common expense to be assessed and collected from all of the owners of PRIVATE DWELLINGS. However, where any alterations and improvements are exclusively or substantially exclusively for the benefit of the owner or owners of a PRIVATE DWELLING or PRIVATE DWELLINGS requesting the same then the cost of such alterations and improvements shall be assessed against and collected solely from the owner or owners of the PRIVATE DWELLING or PRIVATE DWELLINGS exclusively or substantially exclusively benefitted, and the assessment to be levied in such proportion as may be determined by the Board of Directors of the ASSOCIATION.

XX

MAINTENANCE AND REPAIR BY OWNERS OF PRIVATE DWELLINGS

The owner of each PRIVATE DWELLING must promptly correct any condition which, if left uncorrected, would adversely affect the apartment building or any part thereof belonging to another PRIVATE DWELLING owner. If the building or any other PRIVATE DWELLING owner should sustain damages because of another owner failing to correct the condition within his premises, such owner shall be liable and responsible for the damages and liability which his action or non-action occasioned. The owner of each PRIVATE DWELLING shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all air conditioning and heating equipment, stoves, refrigerators, fans, or other appliances or equipment, including any fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to his PRIVATE DWELLING and which may now or hereafter be situated in his PRIVATE DWELLING. Such owner shall further be responsible and liable for maintenance, repair and replacement of any and all wall, ceiling and floor exterior surfaces, painting, decorating and furnishings, and all

other accessories which such owner may desire to place or maintain in his PRIVATE DWELLING. Wherever the maintenance, repair and replacement of any items for which the owner of a PRIVATE DWELLING is obligated to maintain, repair or replace at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the ASSOCIATION, the proceeds of the insurance received by the ASSOCIATION shall be used for the purpose of making such maintenance, repair or replacement, except that the owner of such PRIVATE DWELLING shall be, in said instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

## XXI

## MAINTENANCE AND REPAIR OF COMMON

PROPERTY AND LIMITED COMMON PROPERTY BY ASSOCIATION

The ASSOCIATION, at its expense, shall be responsible for the maintenance, repair and replacement of all of the COMMON PROPERTY and LIMITED COMMON PROPERTY, including those portions thereof which contribute to the support of the building, and all conduits, ducts, plumbing, wiring and other facilities located in the COMMON PROPERTY and the LIMITED COMMON PROPERTY, for the furnishing of utility services to the PRIVATE DWELLINGS and said COMMON PROPERTY and LIMITED COMMON PROPERTY and should any incidental damage be caused to any PRIVATE DWELLING by virtue of any work which may be done or caused to be done by the ASSOCIATION in the maintenance, repair or replacement of any COMMON PROPERTY, the said ASSOCIATION shall, at its expense, repair such incidental damage.



## XXII

LIMITED COMMON PROPERTY

Upon his acquiring a fee simple title interest in and to a private dwelling, or thereafter, each owner may be assigned one or more rooms, spaces or areas as limited common property. The owner of each private dwelling shall have the exclusive right to use such LIMITED COMMON PROPERTY as may have been assigned and such exclusive right shall become an appurtenance to said Private Dwelling and upon the conveyance or passing of title to the Private Dwelling, such exclusive right shall pass as an appurtenance thereto in the same manner as the undivided interest in the Common Property appurtenant to such Private Dwelling passes. No conveyance or passing of any title in any manner whatsoever to any exclusive right to use limited Common Property may be made or accomplished separately from the conveyance or passing of title to the Private Dwelling to which it is appurtenant except that such exclusive right may be separately assigned, transferred or conveyed to the ASSOCIATION by any PRIVATE DWELLING owner. However, while the ASSOCIATION shall be the owner of the exclusive right to use any of the LIMITED COMMON PROPERTY, the same shall be treated by the ASSOCIATION just as though the same constituted a part of the COMMON PROPERTY instead of the said LIMITED COMMON PROPERTY. The Assignment of said LIMITED COMMON PROPERTY shall be reflected on the permanent records of the ASSOCIATION but shall not be recorded among the Public Records of the County in which the condominium property is situated.

## XXIII

PRIVATE DWELLING OWNER LIABILITY FOR LOSS-INSURANCE COVERAGE

Risk of loss or of damage to any furniture, furnishings, personal effects



and other personal property (other than such furniture, furnishings and personal property constituting a portion of the Common Property) belonging to or carried on the person of each PRIVATE DWELLING owner, or which may be stored in any PRIVATE DWELLING, or in, or upon COMMON PROPERTY or LIMITED COMMON PROPERTY, shall be borne by the owner of each such PRIVATE DWELLING. The owner of a PRIVATE DWELLING shall have no personal liability for any damages caused by the Association or in connection with the use of the COMMON PROPERTY or LIMITED COMMON PROPERTY. The owner of a PRIVATE DWELLING shall be liable for injuries or damages resulting from an accident in his own PRIVATE DWELLING to the same extent and degree that the owner of a house would be liable for an accident occurring within the house. The owner of each PRIVATE DWELLING may, at his own expense, obtain insurance coverage for loss of or damage to any furniture, furnishings, personal effects and other personal property belonging to such owner and may, at his own expense and option, obtain insurance coverage against personal liability for injury to the person or property of another while within such owner's PRIVATE DWELLING or upon the Common Property or Limited Common Property.

## XXIV

INSURANCE COVERAGE TO BE MAINTAINED BY ASSOCIATION;  
USE AND DISTRIBUTION OF INSURANCE PROCEEDS, ETC.

The following insurance coverage shall be maintained in full force and effect by the Association:

(A) Casualty Insurance covering all of the Private Dwellings, Common Property and Limited Common Property in an amount in excess of excavation and foundation costs, as determined annually by the insurance carrier, such coverage to afford protection against (1) loss or damage

by fire or other hazards covered by the standard extended coverage or other perils endorsements; and (ii) such other risks of a similar or dissimilar nature as are or shall be customarily covered with respect to buildings similar in construction, location and use to this CONDOMINIUM, included but not limited to vandalism, malicious mischief, windstorm, wind-driven water damage and Federal flood insurance, if available;

(B) Public liability and property damage insurance in such amounts and in such form as shall be required by the ASSOCIATION;

(C) Workmen's Compensation insurance to meet the requirements of law;

(D) Such other insurance coverage as the Board of Directors of the Association in its sole discretion may determine from time to time to be in the best interests of the Association and the owners of the Private Dwellings.

All liability insurance maintained by the Association shall contain cross-liability endorsements to cover liability of all owners of Private Dwellings as a group to each Private Dwelling Owner

All insurance coverage authorized to be purchased shall be purchased by the Association for itself and for the benefit of all of the owners of all PRIVATE DWELLINGS, and their respective mortgagees as their interests shall appear. The cost of obtaining the insurance coverage authorized above is declared to be a common expense, as are any other fees and expenses incurred which may be necessary or incidental to carrying out the provisions hereof.

All policies of casualty insurance covering the Condominium shall provide for the insurance proceeds covering any loss to be payable to the

Association in trust, and the insurance proceeds from any casualty loss shall be held for the use and benefit of the lender and of all of the owners of all Private Dwellings and their respective mortgagees, as their interest may appear, and such insurance proceeds shall be applied or distributed in the manner herein provided. The Association is hereby declared to be and appointed as Authorized Agent for all of the owners of all Private Dwellings for the purpose of negotiating and agreeing to a settlement as to the value and extent of any loss which may be covered under any policy of casualty insurance, and is granted a full right and authority to execute in favor of any insurer a release of liability arising out of any occurrence covered by any policy or policies of casualty insurance and resulting in loss of or damage to insured property with the consent of lender, so long as the lender's mortgage is outstanding. The Association shall furnish the lender with paid bills or copies thereof showing that the premiums of such insurance have been paid, and shall furnish the lender with copies of all policies in force upon said condominium.

The company or companies with whom the Association shall place its casualty insurance coverage must be good and responsible companies authorized to do business in Florida. Said company or companies and agent or agents shall be first approved by the lender.

Where any insurance proceeds are paid to the Association in trust for any casualty loss, the holder or holders of any mortgage or mortgages encumbering a Private Dwelling shall not have the right to determine or participate in the determination of repair or replacement of any loss or damage, and shall not have the right to elect to apply insurance proceeds to the reduction of any mortgage or mortgages, unless such insurance proceeds represent a distribution to the owner or owners of any Private Dwelling or Private Dwellings, and their respective mortgagees, after

such insurance proceeds have been first applied to repair, replacement or reconstruction of any loss or damage, or unless such casualty insurance proceeds are authorized to be distributed to the owner or owners of any Private Dwelling or Private Dwellings, and their respective mortgagee or mortgagees, by reason of loss of or damage to any property as to which a determination is made not to repair, replace or restore such property.

In the event of loss or damage to Common Property, real or personal, and/or Limited Common Property, and/or Private Dwelling or Dwellings, which loss or damage is covered by the casualty insurance, the proceeds paid to the Association in trust to cover such loss or damage shall be applied to the repair, replacement or reconstruction of such loss or damage, in the following order: first, toward the repair, replacement or reconstruction of the Common Property, including the Limited Common Property, and then toward the repair, replacement or reconstruction of the Private Dwellings. If the insurance proceeds are in excess of the cost of the repair, replacement or reconstruction, then such excess insurance proceeds shall be paid by the Association to the owners of all of the Private Dwellings and their respective mortgagees, irrespective of whether there may be exclusive right to use Limited Common Property appurtenant to any of such Private Dwellings, the distribution to be separately made to the owner of each Private Dwelling and his respective mortgagee or mortgagees, as their interests may appear, in such proportion that the share of such excess insurance proceeds paid to the owner of each Private Dwelling and his said mortgagee or mortgagees, if any, shall bear the same ratio to the total excess insurance proceeds as does the undivided interest in Common Property appurtenant to each Private Dwelling bear to the total undivided interests in Common Property appurtenant to all Private Dwellings. If it appears that the insurance proceeds covering the casualty loss or damage payable to the Association in trust are not sufficient to pay for the repair, replacement or reconstruction of the loss or damage, or that the insurance proceeds when collected

will not be so sufficient, then the Association shall deposit in the insurance trust fund a sum which, together with the insurance proceeds received, or to be received, will enable the Association to completely pay for the repair, replacement or reconstruction of any loss or damage, as the case may be. The monies to be so deposited by the Association in the insurance trust fund, in said latter event, may be paid by the Association out of its Reserve for Replacement Fund, and if the amount in such Reserve for Replacement Fund is not sufficient, then the Association shall levy and collect an assessment against the owners of all Private Dwellings and said Private Dwellings in an amount which shall provide the funds required to pay for said repair, replacement or reconstruction without regard to the existence of any exclusive right to use Limited Common Property which may be an appurtenance to said Private Dwellings.

In the event of loss of or damage to property covered by such casualty insurance, the Association shall, within sixty (60) days after any such occurrence, obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before such loss or damage, such estimates to contain and include the cost of any professional fees and premium for such Bond as the Board of Directors of the Association may deem to be in the best interests of the membership of said Association. Wherever it shall appear that the insurance proceeds payable for such loss or damage will not be sufficient to defray the cost of the repair, replacement or reconstruction thereof, the additional monies required to completely pay for such repair, replacement or reconstruction of said loss or damage shall be deposited in the insurance trust fund no later than thirty (30) days from the date on which the Association shall receive the monies payable under the policy or policies of casualty insurance.

In the event of the loss of or damage to personal property belonging to the Association, the insurance proceeds shall be paid to the Association. In the event of the loss of or damage to personal property constituting

a portion of the Common Property and should the Board of Directors of the Association determine not to replace such personal property as may be lost or damaged, then the insurance proceeds received by the Association shall be paid to all of the owners of all Private Dwellings and their respective mortgagee or mortgagees, as their interests may appear, in the manner and in the proportions hereinbefore provided for the distribution of excess insurance proceeds.

All of the foregoing covenants concerning the lender or other mortgagees are for the benefit of the lender and may be enforced by the lender.

## XXV

## APPORTIONMENT OF TAX OR SPECIAL ASSESSMENT

IF LEVIED AND ASSESSED AGAINST THE CONDOMINIUM AS A WHOLE

In the event that any taxing authority having jurisdiction over the CONDOMINIUM shall levy or assess any Tax or Special Assessment against the CONDOMINIUM, as a whole, as opposed to levying and assessing such Tax or Special Assessment against each Private Dwelling and its appurtenant undivided interest in Common Property, as now provided by law, then such Tax or Special Assessment so levied shall be paid as a common expense by the Association, and any Taxes or Special Assessments which are to be levied shall be included, wherever possible, in the estimated Annual Budget of the Association, or shall be separately levied and collected as an assessment by the Association against all of the owners of all Private Dwellings and said Private Dwellings, if not included in said Annual Budget. The amount of any Tax or Special Assessment paid or to be paid by the Association in the event that such Tax or Special Assessment is levied against the CONDOMINIUM, as a whole, instead of against each separate Private Dwelling and its appurtenant undivided interest in Common Property, shall be apportioned among the owners of all Private Dwellings so that the amount of such Tax or Special Assessment so paid or to be



paid by the Association and attributable to and to be paid by the owner or owners of each Private Dwelling shall be that portion of such total Tax or Special Assessment which bears the same ratio to said total Tax or Special Assessment as the undivided interest in Common Property appurtenant to each Private Dwelling bears to the total undivided interest in Common Property appurtenant to all Private Dwellings. In the event that any Tax or Special Assessment shall be levied against the CONDOMINIUM in its entirety, without apportionment by the taxing authority to the Private Dwellings and appurtenant undivided interests in Common Property, then the assessment by the Association, which shall include the proportionate share of such Tax or Special Assessment attributable to each Private Dwelling and its appurtenant undivided interest in Common Property, shall separately specify and identify the amount of such assessment attributable to such Tax or Special Assessment, and the amount of such Tax or Special Assessment so designated shall be and constitute a lien prior to all mortgages and encumbrances upon any Private Dwelling and its appurtenant undivided interest in Common Property, regardless of the date of attachment and/or recording of such mortgage or encumbrance, to the same extent as though such Tax or Special Assessment had been separately levied by the taxing authority upon each Private Dwelling and its appurtenant undivided interest in Common Property.

All personal property taxes levied or assessed against personal property owned by the Association shall be paid by said Association and shall be included as a common expense in the Annual Budget of the Association.

In apportionment of any Tax or Special Assessment in accordance with the provisions of this Article, such apportionment shall be made without regard to the existence of any exclusive right to use Limited Common Property which may be an appurtenance to any Private Dwelling.

## XXVI

ASSOCIATION TO MAINTAIN REGISTRY OF OWNERS AND MORTGAGEES

The Association shall at all times maintain a Register setting forth the names of the owners of all of the Private Dwellings, and in the event of the sale or transfer of any private Dwelling to a third party, the purchaser or transferee shall notify the Association in writing of his interest in such Private Dwelling, together with such recording information as shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any Private Dwelling. Further, the owner of each Private Dwelling shall at all times notify the Association of the names of the parties holding any mortgage or mortgages on any Private Dwelling and the recording information which shall be pertinent to identify the mortgage or mortgages.

The holder of any mortgage or mortgages upon any Private Dwelling may, if they so desire, notify the Association of the existence of any mortgage or mortgages held by such party on any Private Dwelling, and upon receipt of such notice, the Association shall register in its records all pertinent information pertaining to the same.

## XXVII

ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT

The Association is given the authority to administer the operation and management of the CONDOMINIUM. To properly administer the operation and management of the project, the Association will incur, for the mutual benefit of all of the owners of Private Dwellings, costs and expenses which will be continuing or non-recurring costs, as the case may be, which costs and expenses are sometimes herein referred to as "common expenses". In furtherance of the grant of authority to the Association to make, levy

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and collect assessments to pay the costs of the common expenses, the following provisions shall be operative and binding upon the owners of all Private Dwellings, to-wit:

(A) All assessments levied against the owners of Private Dwellings and said Private Dwellings shall be uniform and, unless specifically otherwise provided for in this Declaration of Condominium, the assessments made by the Association shall be in such proportion that the amount of assessment levied against each owner of a Private Dwelling and his Private Dwelling shall bear the same ratio to the total assessment made against all owners of Private Dwellings and their Private Dwellings as does the undivided interest in Common Property appurtenant to each Private Dwelling bear to the total undivided interest in Common Property appurtenant to all Private Dwellings, without increase or diminution for the existence or lack of existence of any exclusive right to use Limited Common Property which may be an appurtenance to any Private Dwelling. Should the Association be the owner of any Private Dwelling or Private Dwellings, the assessment which would otherwise be due and payable to the Association by the owner of such Private Dwelling or Private Dwellings, reduced by the amount of income which may be derived from the leasing of such Private Dwelling or Private Dwellings by the Association, shall be apportioned and assessment therefor levied ratably among the owners of all Private Dwellings which are not owned by the Association, based upon their proportionate interests in the Common Property exclusive of the interests therein appurtenant to any Private Dwelling or Private Dwellings owned by the Association.

(B) The assessment levied against the owner of each Private Dwelling and his Private Dwelling shall be payable in such installments and at such times as may be determined by the Board of Directors of the Association.

(C) The Board of Directors of the Association shall establish an

Annual Budget in advance for such fiscal year which shall correspond to the calendar year, and such Budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the CONDOMINIUM, including a reasonable allowance for contingencies and reserves, such Budget to take into account projected anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. Upon adoption of such Annual Budget by the Board of Directors of the Association, copies of said Budget shall be delivered to each owner of a Private Dwelling and the assessment for said year shall be established based upon such Budget, although the delivery of a copy of said Budget to each owner shall not affect the liability of any owner for such assessment. Should the Board of Directors at any time determine, in the sole discretion of said Board of Directors, that the assessments levied are or may prove to be insufficient to pay the costs of operation and management of the CONDOMINIUM; or, in the event of emergencies, said Board of Directors shall have the authority to levy such additional assessment or assessments as it shall deem to be necessary.

(D) The Board of Directors of the Association, in establishing said Annual Budget for operation, management and maintenance of the Project, shall include therein a sum to be collected and maintained as a reserve fund for replacement of Common Property and Limited Common Property, which reserve fund shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the Common Property and Limited Common Property, as well as the replacement of personal property which may constitute a portion of the Common Property held for the joint use and benefit of all of the owners of all Private Dwellings. The amount to be allocated to such reserve fund for replacements shall be established by said Board of Directors so as to accrue and maintain at all times a sum reasonably necessary to anticipate the need for replacement of said Common Property and Limited

Common Property. The amount collected and allocated to the Reserve Fund for Replacements from time to time shall be maintained in a separate account by the Association although nothing herein contained shall limit the Association from applying any monies in such Reserve Fund for Replacements to meet other needs or requirements of the Association in operating or managing the Project in the event of emergencies, or in the event that the sums collected from the owners of Private Dwellings are insufficient to meet the then fiscal financial requirements of the Association, but it shall not be a requirement that these monies be used for such latter purposes as a separate assessment may be levied therefor if deemed to be preferable by the Board of Directors of the Association in the sole discretion of said Board of Directors.

(E) The Board of Directors of the Association, in establishing said Annual Budget for operation, management and maintenance of the Project, may include therein a sum to be collected and maintained as a general operating reserve which shall be used to provide a measure of financial stability during periods of special stress when such sums may be used to meet deficiencies from time to time existing as a result of delinquent payment of assessments by owners of Private Dwellings as a result of result of emergencies or for other reason placing financial stress upon the Corporation. The annual amount allocated to such operating reserve and collected therefor shall be determined by the Board of Directors. In no event shall surplus or excess sums be construed as income to the Association, but will be a liability of the Association in favor of the Private Dwelling owners in direct proportion to their percentage of interest in the Common Property.

(F) All monies collected by the Association shall be treated as the separate property of the said Association, and such monies may be applied by the said Association to the payment of any expense of operating and managing the CONDOMINIUM, or to the proper undertaking of all acts

and duties imposed upon it by virtue of this Declaration of Condominium and the Articles of Incorporation and By-Laws of said corporation, and as the monies for any assessment are paid into the Association by any owner of a Private Dwelling, the same may be co-mingled with the monies paid to the Association by the other owners of Private Dwellings. Although all funds and other assets of the Association, and any increments thereto or profits derived therefrom, or from the leasing or use of Common Property shall be held for the benefit of the members of the Association, no member of said Corporation shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Private Dwelling. When the owner of a Private Dwelling shall cease to be a member of the Association by reason of the divestment of his ownership of such Private Dwelling, by whatever means, the Association shall not be required to account to such owner for any share of the funds or assets of the Association, or which may have been paid to said Association by such owner, as all monies which any owner has paid to the Association shall be and constitute an asset of said corporation which may be used in the operation and management of the CONDOMINIUM.

(G) The payment of any assessment or installment thereof due to the Association shall be in default if such assessment, or any installment thereof, is not paid unto the Association on or before the due date for such payment. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at the rate of 8% per annum until such delinquent assessment or installment thereof and all interest due thereon has been paid in full to the Association.

(H) The owner or owners of each Private Dwelling shall be personally liable, jointly and severally, as the case may be, to the Association for the payment of all assessments, regular or special,

which may be levied by the Association while such party or parties are owner or owners of a Private Dwelling in the Condominium. In the event that any owner or owners are in default in payment of any assessment or installment thereof owing to the Association, such owner or owners of any Private Dwelling shall be personally liable, jointly and severally, for interest on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorney's fee, whether suit be brought or not.

(I) No owner of a Private Dwelling may exempt himself from liability for any assessment levied against such owner and his Private Dwelling by waiver of the use or enjoyment of any of the Common Property, or by abandonment of the Private Dwelling, or in any other manner.

(J) Recognizing that the necessity for providing proper operation and management of the Project entails the continuing payment of costs and expenses therefor, which results in benefit to all of the owners of Private Dwellings, and that the payment of such Common Expense represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of the owner of each Private Dwelling, the Association is hereby granted a lien upon such Private Dwelling and its appurtenant undivided interest in Common Property, and if applicable, upon any exclusive right to use Limited Common Property which may be an appurtenance to any such Private Dwelling, which lien shall secure and does secure monies due for all assessments now or hereafter levied against the owner of each Private Dwelling, which lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing to the Association, and which lien shall also secure all costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing this lien upon said Private Dwelling and its appurtenant undivided interest

in the Common Property and Limited Common Property. The lien granted to the Association may be foreclosed in the same manner as real estate mortgages may be foreclosed in the State of Florida; and in any suit for the foreclosure of said lien, the Association shall be entitled to rental from the owner of any Private Dwelling from the date on which the payment of any assessment or installment thereof became delinquent and shall be entitled to the appointment of a Receiver for said Private Dwelling, without notice to the owner of a such Private Dwelling. The rental required to be paid shall be equal to the rental charged on comparable type of Dwelling Units. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the rate of 8% per annum on any such advances made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any PRIVATE DWELLING, or who may be given or acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien granted to the ASSOCIATION, and shall acquire such interest in any PRIVATE DWELLING expressly subject to such lien, upon its recording as provided hereinafter.

(K) The lien herein granted unto the ASSOCIATION shall be effective from and after the time of recording in the Public Records of the county in which the condominium property is situated a claim of lien stating the description of the PRIVATE DWELLING encumbered thereby, the name of the record owner, the amount due and the date when due, and the lien shall continue in effect until all sums secured by said lien, as herein provided, shall have been fully paid. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above

provided, Such claims of lien shall be signed and verified by an officer or agent of the ASSOCIATION. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The claim of lien filed by the Association shall be subordinate to the lien of any mortgage or any other lien recorded prior to the time of recording of the Association's claim of lien, except that the lien of the Association for tax or special assessment advances made by the Association where any taxing authority having jurisdiction levies any tax or special assessments against the CONDOMINIUM as an entirety instead of levying the same against each PRIVATE DWELLING and its appurtenant undivided interest in Common Property, shall be prior in lien; right and dignity to the lien of all mortgages, liens and encumbrances, whether or not recorded prior to the Association's claim of lien therefor, and the Association's claim of lien for collection of such portion of any tax or special assessment shall specifically designate that the same secures an assessment levied pursuant to the provisions of this Declaration of Condominium.

In the event that any person, firm or corporation shall acquire title to any PRIVATE DWELLING and its appurtenant undivided interest in common property by virtue of any foreclosure or judicial sale or through voluntary conveyance in lieu of foreclosure and judicial sale, such person, firm or corporation so acquiring title shall only be liable and obligated for assessments as shall accrue and become due and payable for said Private Dwelling and its appurtenant undivided interest in Common Property subsequent to the date of acquisition of such title, and shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title, except that such person, firm or corporation shall acquire such title subject to the lien of any assessment by the Association representing an apportionment of taxes or special assessment levied by the taxing authorities against



the CONDOMINIUM in its entirety. In the event of the acquisition of a PRIVATE DWELLING by foreclosure or judicial sale, or through voluntary conveyance in lieu of foreclosure and judicial sale, any assessment or assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all owners of all PRIVATE DWELLINGS as a part of the Common Expense, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

(L) Whenever any private Dwelling may be leased, sold or mortgaged by the owner thereof, which lease or sale shall be concluded only upon compliance with other provisions of this Declaration of Condominium, the Association, upon written request of the owner of such Private Dwelling, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association by the owner of such Private Dwelling. Such statement shall be executed by any officer of the Corporation and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

In the event that a Private Dwelling is to be leased, sold or mortgaged at the time when payment of any assessment against the owner of said Private Dwelling and such Private Dwelling due to the Association shall be in default (whether or not a claim of lien has been recorded by the Association), then the rent, proceeds of such purchase or mortgage proceeds, shall be applied by the lessee or purchaser first to payment of any then delinquent assessment or installments thereof due to the Association before the payment of any rent, proceeds of purchase or mortgage proceeds to the owner of any Private Dwelling who is responsible for payment of such delinquent assessment.



In any voluntary conveyance of a Private Dwelling, the Grantee shall be jointly and severally liable with the Grantor for all unpaid assessments against Grantor made prior to the time of such voluntary conveyance, without prejudice to the rights of the Grantee to recover from the Grantor the amounts paid by the Grantee therefor.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt to effect collection of any sum then remaining due to it.

## XXVII

TERMINATION

If this Declaration of Condominium and the Plan of Condominium Ownership established herein is to be terminated, then a Certificate of Resolution of the Board of Directors of the Association to said effect and notice of the cancellation and termination hereof shall be executed by the President and Secretary of the Association in recordable form, and such instrument shall be recorded in the Public Records of the county in which the condominium property is situated. Upon termination of this Declaration of Condominium and the Plan of Condominium Ownership established herein, all of the owners of Private Dwellings shall be and become tenants in common as to the ownership of the Condominium property herein described, and any then remaining improvements thereon, the undivided interest in such property and remaining improvements held by the owner or owners of each Private Dwelling to be the same as the undivided interest in Common Property which was formerly appurtenant to

such Private Dwelling and the lien of any mortgage or other encumbrance upon each Private Dwelling shall attach, in the same order of priority, to the percentage of undivided interest of the owner of a Private Dwelling in the property and then remaining improvements as above provided. Upon termination of this Declaration of Condominium and the Plan of Condominium Ownership established herein, the Association shall distribute any insurance proceeds which may be due under any policy or policies of casualty insurance to the owners of the Private Dwellings and mortgagees, as their respective interests may appear, such distribution to be made to the owner or owners of each Private Dwelling in accordance with their then undivided interest in the condominium property and remaining improvements as hereinbefore provided. The assets of the Association, upon termination of the Plan of Condominium Ownership created hereby, shall then be distributed to all of the owner or owners of each Private Dwelling and to his or their mortgagees, as their respective interests may appear, in the same manner as was above provided for the distribution of any final insurance proceeds.

This Declaration of Concominium and Plan of Condominium Ownership may only be terminated by the unanimous consent of all of the owners of all Private Dwellings and all of the parties holding mortgages, liens or other encumbrances against any of said Private Dwellings, in which event the termination of the Condominium shall be by such plan as may then be adopted by said owner or parties holding any mortgages, liens or other encumbrances. Such election to terminate this Declaration of Condominium and the Plan of Condominium Ownership established herein shall be by such Plan as may be then adopted by said owners and parties holding any mortgage, liens or other encumbrances. Such election to terminate this Declaration of Condominium and the Plan of Condominium Ownership established herein shall be executed in writing by all of the aforementioned parties, and such instrument or instruments shall be recorded in the Public Records of the County in which the condominium property is situated.

In the event of the termination of the Condominium as above provided, any exclusive right to use Limited Common Property which may be an appurtenance to any Private Dwelling shall be automatically cancelled and terminated, and all Limited Common Property shall be treated in the same manner as though the same constituted a portion of Common Property.

XXI:

AMENDMENT OF DECLARATION OF CONDOMINIUM

Except for any alteration in the percentage of ownership in Common Property appurtenant to each Private Dwelling, or alteration of the basis for apportionment of assessments which may be levied by the Association in accordance with the provisions hereto, in which said instances consent of all of the owners of all Private Dwellings and their respective mortgagees shall be required, this Declaration of Condominium may be amended in the following manner.

An amendment or amendments to this Declaration of Condominium may be proposed by the Board of Directors of the Association acting upon a vote of the majority of the Directors, or by the members of the Association owning a majority of the Private Dwellings in the CONDOMINIUM, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to this Declaration of Condominium being proposed by said Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a Special Meeting of the Members of the Association for a date not sooner than twenty (20) days nor later than sixty (60) days from receipt by him of the proposed amendment or amendments, and it shall be the duty of the secretary to give to each member written or printed notice of such Special Meeting, stating the time and place thereof,

and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed not less than ten (10) days nor more than thirty (30) days before the date set for such Special Meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail addressed to the member at his Post Office address as it appears on the records of the Association, the postage thereon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. At such meeting, the amendment or amendments proposed must be approved by an affirmative vote of the members owning not less than two thirds (2/3) of the Private Dwellings in the condominium in order for such amendment or amendments to become effective. Thereupon, such amendment or amendments of this Declaration of Condominium shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted and the original or an executed copy of such amendment or amendments so certified and executed with the same formalities as a deed shall be recorded in the Public Records of Volusia County, Florida, within ten (10) days from the date on which the same became effective, such amendment or amendments to specifically refer to the recording data identifying the Declaration of Condominium. Thereafter, a copy of said amendment or amendments in the form in which the same were placed of record by the officers of the Association shall be delivered to all of the owners of all Private Dwellings, but delivery of a copy thereof shall not be a condition precedent to the effectiveness of such amendment or amendments. At any meeting held to consider such amendment or amendments, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting.

Notwithstanding anything to the contrary hereinabove set forth the following provisions shall govern and prevail:

(A) Until the first Private Dwelling is conveyed by deed recorded among the Public Records of the county in which the condominium property is situated, the declaror executing this Declaration of Condominium shall have the sole right to amend, alter, change or modify the terms and provisions of this Declaration of Condominium except that no such amendment, alteration, change or modification in the percentage of ownership in Common Property appurtenant to each Private Dwelling or alteration of the basis for apportionment of assessments which may be levied by the Association except in accordance with all persons who have theretofore contracted to purchase a Private Dwelling in the condominium.

(B) So long as the Lender is the holder of any mortgage on the Condominium property or on any Private Dwelling in the Condominium, no change, amendment, alteration or modification may be made to this Declaration of Condominium without its prior written consent and approval.

XXX

REMEDIES IN EVENT OF DEFAULT

The owner or owners of each Private Dwelling shall be governed by and shall comply with the provisions of this Declaration of Condominium, the Articles of Incorporation, By-Laws of the Association and the Association Rules and Regulations, as any of the same are not constituted or as they may be amended from time to time. A default by the owner or owners of any Private Dwelling shall entitle the Association or the owner or owners of other Private Dwelling or Private Dwellings to the following relief:

(A) Failure to comply with any of the terms of this Declaration of Condominium or other restrictions and regulations contained in the Articles of Incorporation, By-Laws of the Association, or the Association Rules and Regulations, as any of the same are now constituted, or as they may be amended from time to time shall be grounds for relief, which may include, without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien or any combination thereof, and which relief may be sought by the Association, or, if appropriate, by an aggrieved owner of a Private Dwelling.

(B) The owner or owners of each Private Dwelling shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expenses are not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Private Dwelling or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

(C) In any proceeding arising because of an alleged default by the owner of any Private Dwelling, the Association, if successful, shall be entitled to recover the costs of the proceeding, and such reasonable attorney's fees as may be determined by the Court, but in no event shall the owner of any Private Dwelling be entitled to such attorney's fees.

(D) The failure of the Association or of the owner of a Private Dwelling to enforce any right, provision, covenant or condition which may be granted by this Declaration or other above mentioned documents shall not constitute a waiver of the rights of the Association or of the owner of a Private Dwelling to enforce such right, provision, covenant or condition in the future.



(E) All rights, remedies and privileges granted to the Association or the owner or owners of a Private Dwelling pursuant to any terms, provisions, covenants or conditions of this Declaration or other above mentioned documents, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies, or privileges as may be available to such party at law or in equity.

## XXXI

USE OR ACQUISITION OF INTEREST IN THE CONDOMINIUM  
TO RENDER USER OR ACQUIRER SUBJECT TO  
PROVISIONS OF DECLARATION OF CONDOMINIUM RULES AND REGULATIONS

All present or future owners, tenants or any other person who might use the facilities of the CONDOMINIUM in any manner are subject to the provisions of this Declaration of Condominium, the Articles of Incorporation, the By-Laws and Rules and Regulations, and the mere acquisition or rental of any Private Dwelling, or the mere act of occupancy of any PRIVATE DWELLING, shall signify that the provisions of this Declaration of Condominium are accepted and ratified in all respects.

## XXXII

RIGHTS OF DEVELOPER

(A) The developers of the condominium project is GRIFFIN FUNDING, INC., Florida corporations and has the right to sell or lease or cause to be sold or leased all of the apartment units constructed and to be constructed on the condominium property.

As to all of such unsold apartment units, the Developer shall have



the absolute and continuing right to lease, sublease and/or sell, or cause to be leased, subleased and/or sold any of such units to any persons, firms or corporations upon any terms and conditions that it may desire; and as to the lease, sublease or sale of any such apartments, the right to approve or disapprove of any prospective buyer or lessee, or the right of first refusal and any right of redemption which the Association may have by virtue of the provisions of the by-laws, or by the virtue of the provisions of the Articles of Incorporation of the Association, or of the within Declaration of Condominium shall not be operative in any manner.

(B) Developer will transfer control of the Association within 3 months after 90 percent of the units have been conveyed to the purchasers unless an earlier date is required by law. The Developer is entitled to elect at least one member to the Board of Administration of the Association as long as the developer holds for sale any unit in the ordinary course of business.

(C) The Developer shall be responsible for the pro rata share of all actual costs and expenses incurred in the maintenance and operation of the Condominium building for the number of apartments owned by the Developer from time to time. If the assessments imposed by the Association are in excess of the actual amount of the costs and expenses incurred, the Developer shall not be obligated to pay such excess. Neither Developer nor Developer's unsold apartments shall be liable for assessments for a general operating reserve or reserves for repairs, replacements or additions to real or personal property.

(D) The Developer reserves the sole right to assign the exclusive right to the use of any and all of the Limited Common Property until the Developer has caused all Private Dwelling units to be sold. When all Private Units have been sold, the right to assign the exclusive

right to use the remaining Limited Common Property not theretofore assigned, shall devolve upon the Association.

(E) No alteration, amendment or modification of the rights and privileges granted or reserved in favor of the Developer by this Declaration may be made or accomplished except with the Developer's written consent.

## XXXIII

In the event that any of the terms, provisions or covenants of this Declaration of Condominium are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenants hereof or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

## XXXIV

The provisions of this Declaration of Condominium shall be liberally construed to effectuate its purpose of creating a uniform plan of condominium ownership.

## XXXV

It is understood and agreed that the Lender (i.e. the Lender Holding a mortgage on the units unsold by Developer) shall have the right to review and approve all proposed settlements of condemnation awards. So long as Lender's mortgage is outstanding, all proceeds of condemnation awards shall be applied to reconstruction, replacement and restoration. However, in the event that fifty percent (50%) or more of the units and common elements are condemned, the proceeds of the condemnation award

shall be applied to repayment of any mortgage held by a lender.

## XXXVI

The words CONDOMINIUM CONDOMINIUM PROPERTY AND APARTMENT BUILDING and APARTMENT BUILDING PROPERTY have been used synonymously herein.

The word APARTMENT, APARTMENT UNIT AND PRIVATE DWELLING have been used synonymously herein.

The words LIMITED COMMON PROPERTY mean the Garages and any possible future spaces, rooms and areas assigned by the Developer or the Association.

The DECLAROR is the fee simple title holder to the real property upon which the Condominium Apartment Building has been or will be constructed.

The term OWNER means the person, firm or corporation owning the fee simple title interest in any Private Dwelling.

Definition of FS 718.103 as follows will prevail if any definition in this document differs:

## 718.103 Definitions

As used in this chapter:

- (1) "Assessment" means a share of the funds required for the payment of common expenses, which from time to time is assessed against the unit owner.
- (2) "Association" means the corporate entity responsible for the operation of a condominium.
- (3) "Board of administration" means the board of directors or other

*CHANGES*

representative body responsible for administration of the association.

(4) "Conspicuous type" means type in capital letters no smaller than the largest type on the page on which it appears.

(5) "Bylaws" means the bylaws of the association existing from time to time.

(6) "Common elements" means the portions of the condominium property not included in the units.

(7) "Common Expenses" means all expenses and assessments properly incurred by the association for the condominium.

(8) "Common surplus" means the excess of all receipts of the association including, but not limited to, assessments, rents, profits, and revenues on account of the common elements over the common expenses.

(9) "Condominium" means that form of ownership of real property which is created pursuant to the provisions of this chapter and which is comprised of units that may be owned by one or more persons, and there is, appurtenant to each unit, an undivided share in common elements.

(10) "Condominium parcel" means a unit, together with the undivided share in the common elements which is appurtenant to the unit.

(11) "Condominium property" means the lands, leaseholds, and personal property that are subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.

(12) "Declaration" or "declaration of condominium" means the instrument or instruments by which a condominium is created, as they are from time to time amended.

(13) "Developer" means a person who creates a condominium or offers condominium parcels for sale or lease in the ordinary course of business, but does not include an owner or lessee of a unit who has acquired his unit for his own occupancy.

(14) "Limited common elements" means those common elements which are reserved for the use of a certain condominium unit or units, to the exclusion of other units as specified in the declaration of condominium.

(15) "Operation" or "operation of the condominium" includes the administration and management of the condominium property.

(16) "Unit" means a part of the condominium property which is subject to exclusive ownership. A unit may be in improvements, land, or land and improvements together, as specified in the declaration.

(17) "Unit owner" or "owner of a unit" means the owner of a condominium parcel.

(18) "Residential condominium" means a condominium consisting of condominium units, any of which are intended for use as a private temporary or permanent residence, except that a condominium is not a residential condominium if the use for which the units are intended is primarily commercial or industrial and not more than three units are intended to be used for private residence, and are intended to be used as housing maintenance, managerial, janitorial, or other operational staff of the condominium. If a condominium is a residential condominium but contains units intended to be used for commercial or industrial purposes, then with respect to those units which are not intended for or used as private residences, the condominium is not a residential condominium.

XXXVII

VOTING RIGHTS OF MEMBERS

On all matters on which the membership shall be entitled to vote, there shall be only one vote for each Private Dwelling in the Condominium, which vote may be exercised by the owner or owners of each Private Dwelling in such manner as may be provided in the By-Laws of the Condominium Association. Should any member own more than one (1) Private Dwelling, such member shall be entitled to exercise or cast as many votes as he owns Private Dwellings in the manner provided by the said By-Laws.

XXXVIII

DECLARATION OF CONDOMINIUM BINDING UPON  
DECLAROR'S HEIRS, LEGAL REPRESENTATIVES,  
SUCCESSORS AND ASSIGNS, AND SUBSEQUENT OWNERS

The restrictions and burdens imposed by the covenants of this Declaration of Condominium are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Private Dwelling and its appurtenant undivided interest in Common Property, Common Surplus, and Limited Common Property, and this Declaration of Condominium shall be binding upon the parties hereto and their heirs, legal representatives and successors and assigns, and upon all parties who may subsequently become owners of Private Dwellings in the Condominium and their respective heirs, legal representatives, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals this 7th day of January, 19 80

In the presence of:

*[Signature]*  
Karina B. Simon

GRIFFIN FUNDING, INC.

*[Signature]*  
LONNIE GRIFFIN, President

Attest Not required

(SEAL)



21361428

BOOK PAGE

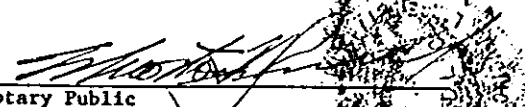
STATE OF FLORIDA )  
COUNTY OF VOLUSIA) SS:

I HEREBY CERTIFY that on this day before me, an officer duly  
qualified to take acknowledgments, personally appeared

LONNIE GRIFFIN

PRESIDENT of GRIFFIN FUNDING, INC., a Florida Corporation,  
to me known to be the person described in and who executed the fore-  
going instrument and acknowledged before me that he executed the same  
for the purposes therein expressed.

WITNESS my hand and official seal this 7th day of  
January, 1980.

  
Notary Public  
State of Florida at Large

My commission expires:

Notary Public, State of Florida at Large  
My commission expires July 20, 1982  
Bonded by United States Fidelity & Guaranty Co.

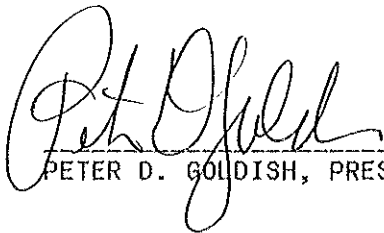


CHANGES TO THE DECLARATION OF CONDOMINIUM OF WATERMARK CONDOMINIUM a/k/a  
401 MANAGEMENT, INC., ADOPTED BY VOTE OF THE MEMBERSHIP AT THE ANNUAL  
MEETING OCTOBER 25, 1992.

BOOK 2136 PAGES 1384 thru 1428

6. PAGE 1392 (9), SECTION XII, SECOND SENTENCE - CHANGE TO READ:

"NO OWNER OR OWNERS OF ANY PRIVATE DWELLING SHALL PERMIT USE OF THE  
SAME FOR COMMERCIAL PURPOSES, EXCEPT FOR A RENTAL OFFICE IN THE  
MANAGERS' UNIT (103) FOR RENTALS IN WATERMARK CONDOMINIUM ONLY, BUT  
NOTHING CONTAINED HEREIN SHALL PREVENT THE OWNER OR OWNERS FROM  
LEASING OR RENTING THE PRIVATE DWELLING."

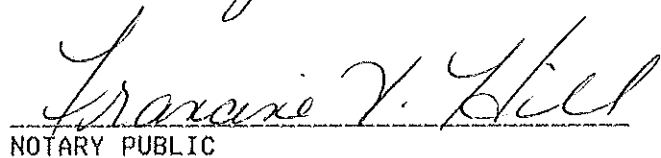
  
PETER D. GOLDISH, PRESIDENT

  
JEANETTE CORDELL, SECRETARY

SWORN TO AND SUBSCRIBED BEFORE ME THIS 23 DAY OF June, 1993.



"OFFICIAL SEAL"  
Francine V. Hill  
My Commission Expires 12/30/98  
Commission #CC 249307

  
NOTARY PUBLIC

**Changes to the Declaration of Condominium of Watermark a/k/a 401 Management, Inc., adopted by vote of the membership at the annual meeting, October 7, 2001.**

BOOK 2136 PAGES 1384 THROUGH 1428

1. Pages 1386 and 1387. Section III (PRIVATE DWELLINGS, COMMON PROPERTY AND LIMITED COMMON PROPERTY), Page 4. Following the definition of LIMITED COMMON PROPERTY starting on page 3, add a second sentence on page 4 to read:

"Within this definition, examples of Limited Common Property are balconies and balcony railings, garages and all structural components thereof, including the garage door, with the exception of the garage door opener."

2. Page 1393 and 1394, Section XVI (RIGHT OF ENTRY INTO PRIVATE DWELLINGS IN EMERGENCIES), Pages 10 – 11. Change to read:

" In case of any emergency originating in or threatening any PRIVATE DWELLING, regardless of whether the owner is present at the time of such emergency, the Board of Directors of the ASSOCIATION, or any other person authorized by it, or the building superintendent or managing agent, shall have the right to enter such PRIVATE DWELLING for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate, and to facilitate entry in the event of any such emergency, the owner of each PRIVATE DWELLING, ~~if required by the ASSOCIATION~~, shall deposit under the control of the ASSOCIATION a key to such PRIVATE DWELLING."

3. Page 1395.

Page 12, Section XIX (RIGHT OF ASSOCIATION TO ALTER AND IMPROVE PROPERTY AND ASSESSMENT THEREFOR). Change first and second sentences to read:

First sentence: "The Association shall have the right to make or cause to be made such alterations or improvements to the COMMON PROPERTY which do not prejudice the rights of the owner of and such PRIVATE DWELLING, providing the making of such alterations or improvements are approved by the Board of Directors of said ASSOCIATION and the cost of such alterations or improvements does not exceed ~~\$2000.00~~ \$5000.00.

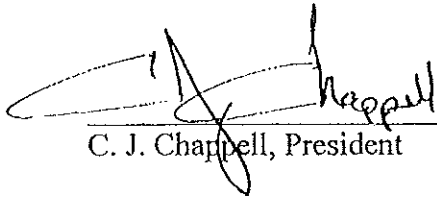
Second sentence: " Improvements and alterations costing in excess of ~~\$2000.00~~ \$5000.00 shall not be made without the approval of the membership of the ASSOCIATION, evidenced by the affirmative vote of at least two-thirds (2/3) of the entire voting power of the membership of the ASSOCIATION acting at a meeting of the members duly called for such purpose."

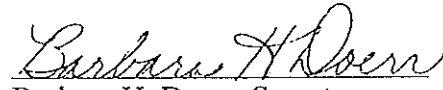
4. Page 1410, Paragraph XXVII (ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT), Sub-paragraph (G), Page 27, Second sentence. Change to read:

"When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at a rate determined by the Board of Directors, consistent with Florida Statutes, the rate of 8% per annum until such delinquent assessment or installment thereof and all interest due thereon has been paid in full to the Association."

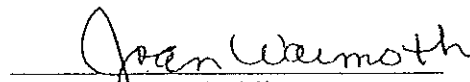
5. Page 1424, Section XXXVI, Page 41, third paragraph. Change to read:

The words LIMITED COMMON PROPERTY mean the Garages, garages, balconies and any possible future spaces, rooms and areas assigned by the Developer or the Association."

  
C. J. Chappell, President

  
Barbara H. Doerr, Secretary

Sworn to and subscribed before me this 13 day of October 2001

  
Notary Public

JOAN WARMOTH  
NOTARY PUBLIC STATE OF FLORIDA  
COMMISSION # CG966332  
EXPIRES 12/8/2004  
BONDED THRU 1-888-NOTARY1

10.00  
NS  
\$

**CHANGES TO THE DECLARATION OF WATERMARK CONDOMINIUM a/k/a 401  
MANAGEMENT, INC., ADOPTED BY SPECIAL VOTE OF THE MEMBERSHIP BY  
WRITTEN INSTRUMENT DECEMBER 14, 2007.**

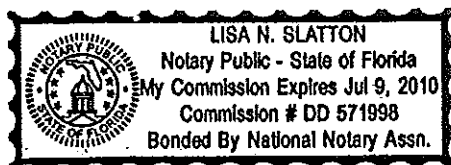
BOOK 2136 PAGE 1386

PAGE 1386 (also page 3, Declaration of Condominium), SECTION III, AT THE END OF THE  
PARAGRAPH ENTITLED "PRIVATE DWELLINGS," THE FOLLOWING SENTENCE  
SHALL BE ADDED:

"ANY PRIVATE DWELLING OWNED IN FEE SIMPLE BY THE ASSOCIATION SHALL  
BE HELD AS COMMON PROPERTY, EXCEPT ANY PRIVATE DWELLING WHOSE  
TITLE HAS BEEN ACQUIRED BY THE ASSOCIATION, BY FORECLOSURE OR BY  
DEED IN LIEU OF FORECLOSURE, PURSUANT TO ENFORCEMENT OF ANY LIEN OF  
THE ASSOCIATION."

Russell B. Ry President      William B. D... Secretary

SWORN TO AND SUBSCRIBED BEFORE ME THIS 14 DAY OF DECEMBER, 2007.



Lisa N. Slatton  
NOTARY PUBLIC

10:54 AM  
# 2007-279130 # 1  
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4757  
atausek  
arty, Clerk of Court