

1.50

RECORDS SECTION  
BREVARD COUNTY  
100 N. New Haven Ave., Suite 200  
DeBourne, FL 32001

AMENDMENT TO DECLARATION OF COVENANTS and  
RESTRICTIONS OF ISLAND VILLAS

Sandy Point Land Development Corp., a Florida corporation, (hereinafter referred to as "DEVELOPER"), hereby files this Amendment To Declaration Of Covenants And Restrictions of Island Villas.

WHEREAS, on October 14, 1992, DEVELOPER caused the Declaration Of Covenants And Restrictions Of Island Villas to be recorded in Official Records Book 3237, Pages 0784 through 0820, inclusive, of the Public Records of Brevard County, Florida, which said covenants, restrictions and easements control the use of the described property in said Declaration; and

WHEREAS, said Declaration refers to the legal description of certain real property which was to be the subject of said Declaration and was to be described in Exhibit "A" attached, however, said Exhibit "A" was not attached to said Declaration nor was it recorded; and

WHEREAS, Section 2.01 of said Declaration refers to the Articles of Incorporation of the Homeowners Association as being attached as Exhibit "B", however, said Exhibit "B" was not attached to said Declaration nor was it recorded; and

WHEREAS, Section 4.09 of said Declaration refers to the Deed Of Conservation Easement, but failed to specify the particular book and page number that said Easement was recorded in the Official Public Records of Brevard County, Florida.

NOW, THEREFORE, DEVELOPER amends the Declaration Of Covenants And Restrictions Of Island Villas in the following:

1. Attached to this Amendment is Exhibit "A", the legal description of the subject property as described in the Declaration Of Covenants And Restrictions Of Island Villas, and hereafter, all references to Exhibit "A" in the Declaration shall refer to this Exhibit "A".
2. Attached to this Amendment is Exhibit "D", the Articles of Incorporation of Island Villas Homeowners Association, Inc. Hereafter, all references in Section 2.01 of said Declaration to Exhibit "B" shall refer to this Exhibit "D".

*Audinstead*  
Clerk Circuit Court

Recorded and Verified	Brevard County, FL
# Pgs. <u>24</u>	# Names <u>7</u>
Trust Fund <u>12.50</u>	Rec Fee <u>97.00</u>
Stamp-Deed _____	Excise Tx _____
Stamp-Mtg _____	Int Tx _____
Service Chg <u>25.00</u>	Refund _____

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3. Section 4.09 is hereby amended to read as follows:

"4.09 Conservation Easement. There has been created an easement for the protection of the wetlands shoreline vegetation of the SUBJECT PROPERTY. See Deed of Conservation Easement as is recorded in the public records of Brevard County, Book 3232, Page 2642, and is attached as Exhibit "B"."

All of the remaining terms and conditions of said Declaration not in conflict with this Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the DEVELOPER has hereunto set its hand and seal this 23<sup>rd</sup> day of October, 1992.

SIGNED, SEALED & DELIVERED  
IN THE PRESENCE OF:

Rebecca Trues  
Paul J. Costello

SANDY POINT LAND DEVELOPMENT CORP.

BY: [Signature]  
David T. McWilliams, President

Rebecca Trues  
Paul J. Costello

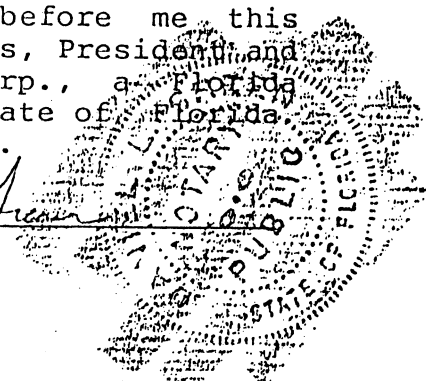
ATTEST:  
[Signature]  
David T. McWilliams, Secretary

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledge before me this 23<sup>rd</sup> day of October, 1992, by David T. McWilliams, President and Secretary of Sandy Point Land Development Corp., a Florida corporation authorized to do business in the State of Florida. He is personally known to me and did take an oath.

[Signature]  
Notary Public

My Commission Expires: 10-22-95



LEGAL DESCRIPTION: (BY SURVEYOR)

A PARCEL OF LAND LYING IN SECTION 2 AND SECTION 3, TOWNSHIP 27 SOUTH, RANGE 37 EAST OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 2, AND GO NORTH 09 53'41" EAST ALONG THE SOUTH LINE OF SAID SECTION 2 A DISTANCE OF 1619.38 FEET TO THE WEST RIGHT-OF-WAY LINE OF SOUTH PATRICK DRIVE AND THE SOUTHEAST CORNER OF WINDWARD COVE AS RECORDED IN PLAT BOOK 32, PAGE 91 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE NORTH 31 08'19" WEST ALONG THE SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 1018.02 FEET TO THE POINT-OF-CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE NORTHEAST, HAVING A CENTRAL ANGLE OF 16 30'36" AND A RADIUS OF 2050.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 590.72 FEET TO THE POINT-OF-BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE SOUTH 76 55'05" WEST A DISTANCE OF 389.25 FEET; THENCE NORTH 11 46'05" EAST A DISTANCE OF 38.25 FEET TO THE SAFE UPLAND LINE OF THE GRAND CANAL (1.00 FOOT N.G.V.D. CONTOUR LINE); THENCE CONTINUE ALONG THE SAID SAFE UPLAND LINE FOR THE FOLLOWING 7 CALLS; NORTH 15 55'04" WEST - 22.49'; NORTH 36 51'29" WEST - 82.25'; NORTH 00 29'55" EAST - 103.03; NORTH 04 50'12" WEST - 80.74; NORTH 12 51'06" WEST - 90.85; NORTH 04 59'46" WEST - 106.44; NORTH 06 38'15" WEST - 88.73; THENCE NORTH 82 26'59" EAST A DISTANCE OF 117.07 FEET; THENCE NORTH 10 00'75" WEST A DISTANCE OF 10.00 FEET; THENCE NORTH 82 26'59" EAST A DISTANCE OF 94.55 FEET; THENCE NORTH 00 05'11" WEST A DISTANCE OF 20.67 FEET TO A CIRCULAR CURVE CONCAVE TO THE NORTHEAST, HAVING A CENTRAL ANGLE OF 09 12'59" RADIUS OF 392.51 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 72 00'59" EAST - 63.07 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 63.14 FEET; THENCE SOUTH 00 05' 11" EAST A DISTANCE OF 36.25 FEET; THENCE NORTH 89 54'51" EAST A DISTANCE OF 138.61 FEET TO THE SAID WEST RIGHT-OF-WAY LINE OF SOUTH PATRICK DRIVE; THENCE SOUTH 00 16'03" EAST ALONG SAID WEST RIGHT-OF-WAY OF SOUTH PATRICK DRIVE A DISTANCE OF 5.76 FEET TO THE POINT-OF-CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE NORTHEAST, HAVING A CENTRAL ANGLE OF 14 21'39" AND A RADIUS OF 2050.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE, BEING THE SAID WEST RIGHT-OF-WAY OF SOUTH PATRICK DRIVE AN ARC DISTANCE OF 513.82 FEET TO THE POINT-OF-BEGINNING. CONTAINING 5.25 ACRES OF LAND MORE OR LESS TOGETHER WITH ANY LANDS LYING BETWEEN THE SAFE UPLAND LINE AND THE ORDINARY HIGH WATER LINE. SUBJECT TO A DRAINAGE EASEMENT ALONG THE SOUTH 50 FEET.

BK 3239 PG 3091

LEGAL DESCRIPTION

Exhibit "A"

ARTICLES OF INCORPORATION  
OF  
ISLAND VILLAS HOMEOWNERS ASSOCIATION, INC.

DRAFT 1.0

DATED: 07-26-90

Exhibit D

ARTICLES OF INCORPORATION  
OF  
ISLAND VILLAS HOMEOWNERS ASSOCIATION, INC.

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ARTICLES OF INCORPORATION  
OF  
ISLAND VILLAS HOMEOWNERS ASSOCIATION, INC.

In compliance with the provisions of Chapter 617, Florida Statutes, the undersigned, for the purpose of forming a corporation not-for-profit does hereby make, subscribe, acknowledge and file in the Office of the Secretary of State of the State of Florida as the ARTICLES OF INCORPORATION OF ISLAND VILLAS HOMEOWNERS ASSOCIATION, INC., a Florida corporation not-for-profit, the following, to wit:

ARTICLE I

DEFINITIONS

The definitions of terms set forth in the DECLARATION of ISLAND VILLAS are hereby specifically incorporated into these ARTICLES OF INCORPORATION by reference thereto as if they were fully set forth herein verbatim and at length, and such defined terms shall have the same meanings in the context of the ARTICLES OF INCORPORATION as is ascribed to them in the context of the DECLARATION.

ARTICLE II

NAME OF ASSOCIATION

The name of the ASSOCIATION shall be:

ISLAND VILLAS HOMEOWNERS ASSOCIATION, INC.

ARTICLE III

OBJECTS AND PURPOSES

The ASSOCIATION has been created and established for the objects and purposes of and shall have exclusive jurisdiction over and the sole responsibility for the ownership, administration, management, operation, regulation, care maintenance, repair restoration, replacement, preservation and protection of the COMMON PROPERTY; the establishment, levy, imposition, enforcement, and collection of all ASSESSMENTS for which provision is made in the DECLARATION; the payment of all COMMON EXPENSES as defined in the DECLARATION; and the promotion and advancement of the health, safety and general welfare of the members of the ASSOCIATION; all as more particularly provided in the DECLARATION and in these ARTICLES, the BY-LAWS and the RULES AND REGULATIONS of the ASSOCIATION, and all having to do with and being related to ISLAND VILLAS.

FILED  
1992 OCT -2 AM 9:36  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA



ARTICLE IV

DUTIES AND POWERS

- 4.1 Duties and Powers, Generally. Except as may be limited by these ARTICLES, the ASSOCIATION shall have all duties, powers, rights and privileges as are, respectively imposed and conferred upon, corporations not-for-profit pursuant to the provisions of Chapter 617 Florida Statutes, and shall also have such duties and powers as are, respectively, imposed and conferred upon it pursuant to the DECLARATION, including, without limitation, such duties and powers as may be reasonably implied from, necessary for and incidental to the accomplishment of the objects and purposes for which the ASSOCIATION has been created and established.
- 4.2 Duties of the ASSOCIATION. The ASSOCIATION, acting by and through its BOARD, shall, in addition to those general and specific duties, responsibilities and obligations imposed upon it by law and those specified in the DECLARATION and the BY-LAWS, have the following specific duties, responsibilities and obligations, to wit:
- 4.2.1 Ownership and Management of COMMON PROPERTY. To own, hold, control, administer, manage, operate, regulate, care for, maintain, repair, replace, restore, preserve and protect all COMMON PROPERTY, whether real, personal or mixed including, without limitation, all COMMON STREETS AND ROADS, the SURFACE WATER MANAGEMENT SYSTEM and all walkways, signs, landscaping, landscape irrigation systems, street lighting systems, central security systems (including guard gates and guard houses), central cable television systems (if any), and all other common improvements, recreation facilities, and other facilities and appurtenances; subject, at all times, however, to the terms and provisions of any document or instrument pursuant to which the ASSOCIATION shall initially acquire title to and use any COMMON PROPERTY from DEVELOPER.
- 4.2.2 Payment of COMMON EXPENSES. To pay all COMMON EXPENSES associated with the ownership, administration, management, operation, regulation, care, maintenance, repair, replacement, restoration, preservation and protection of the COMMON PROPERTY, including, without limitation, the COMMON STREETS AND ROADS, and the SURFACE WATER MANAGEMENT SYSTEM, any recreational facilities, the management, and administration of the business and affairs of the ASSOCIATION and all other COMMON EXPENSES for which provision is made in the DECLARATION.
- 4.2.3 Levy and Collection of ASSESSMENTS. To establish, make, levy, impose, enforce and collect all ASSESSMENTS for which provision is made in the DECLARATION or which shall otherwise be necessary to provide and assure the availability of such funds as may be reasonably necessary to pay all COMMON EXPENSES or otherwise conduct the business and affairs of the ASSOCIATION, including, without limitation, such funds as may be necessary to own, manage, administer, operate, care for, maintain, improve, repair, replace, restore, preserve and protect the COMMON STREETS AND ROADS, the SURFACE WATER MANAGEMENT SYSTEM, and all other COMMON PROPERTY.
- 4.2.4 Security Services. To protect the exclusivity of and provide internal protection and security services for and within ISLAND VILLAS.
- 4.2.5 Recreational Services. To provide and perform such services as deemed necessary by the BOARD for the supervision, maintenance, operation, and staff requirements for the recreational facilities.

- 4.2.6 Other Services. To provide and perform such other services and tasks, the responsibility for which has been expressly or impliedly delegated to the ASSOCIATION pursuant to the DECLARATION.
- 4.2.7 Insurance. To provide adequate insurance protection on and for the COMMON PROPERTY and, consistent with their respective duties, responsibilities and liabilities, provide adequate insurance protection on and for the ASSOCIATION itself and on and for its members, officers and directors, as well as for the members of the ARCHITECTURAL REVIEW BOARD established pursuant to the DECLARATION.
- 4.2.8 Preserve and Enhance Beauty of ISLAND VILLAS. To preserve, protect, maintain and enhance the appearance and natural beauty of the COMMON PROPERTY and the ISLAND VILLAS community generally.
- 4.2.9 Promotion of Health, Safety, and Welfare. To advance, promote, enhance and protect the health, safety and general welfare of the members of the ASSOCIATION, the residents of ISLAND VILLAS and the ISLAND VILLAS community generally; provided, however, that the ASSOCIATION shall be and hereby is specifically prohibited from engaging in any political activity or any other activity whereby its status as a corporation not-for-profit or its exemption from Federal or state income taxation, if any, shall be forfeited or jeopardized.
- 4.2.10 Enforcement of DECLARATION. To assure compliance with and adherence to and otherwise to enforce the provisions of the DECLARATION.
- 4.2.11 Establish and Enforce RULES AND REGULATIONS. To make, establish, promulgate, and publish, and to enforce such RULES AND REGULATIONS for the protection and governing the use of the COMMON PROPERTY as the BOARD of the ASSOCIATION deems to be in the best interest of the ASSOCIATION and its members.
- 4.2.12 Other Activities. To engage in any and all other activities permitted to be engaged in by a corporation not-for-profit under the laws of the State of Florida as may be necessary or appropriate for the achievement of the objects and purposes for which the ASSOCIATION has been created, formed, and established.
- 4.2.13 Operate Without Profit. To operate without profit for the sole and exclusive benefit of its members and the ISLAND VILLAS community generally.
- 4.3 Powers of ASSOCIATION. The ASSOCIATION, acting by and through its BOARD, shall, in addition to those general and specific powers conferred upon it by law and those powers specified in the DECLARATION and the BY-LAWS, have the following specific powers, to wit:
- 4.3.1 Own and Deal With COMMON PROPERTY. Except as may be limited by the terms of the DECLARATION, these ARTICLES and the BY-LAWS of the ASSOCIATION, to acquire, own, hold, control, administer, manage, operate, care for, maintain, repair, replace, restore, preserve, protect, buy, sell, lease, transfer, convey, encumber, or otherwise deal in or with real or personal property (or any interest therein, including easements) which is, or upon its acquisition by the ASSOCIATION shall thereupon become, COMMON PROPERTY as defined in these ARTICLES and in the DECLARATION.
- 4.3.2 Grant and Modify Easements. To grant and modify easements and to dedicate property owned by, or easements of, the ASSOCIATION to any governmental agency or quasi-public agency, authority, or utility company for public utilities, drainage, cable television, or telephone purposes.

- 4.3.3 Levy and Collect ASSESSMENTS. To establish, make, levy, impose, enforce and collect all ASSESSMENTS and impose, foreclose and otherwise enforce all liens for ASSESSMENTS for which provision is made in the DECLARATION in accordance with the terms and provisions of the DECLARATION, these ARTICLES and the BY-LAWS of the ASSOCIATION.
- 4.3.4 Establish Reserves. To create, establish, maintain and administer such capital expenditure and other reserve funds or accounts as shall, in the discretion of the BOARD, be reasonably necessary to provide and assure the availability of the funds necessary for the care, maintenance, repair, replacement, restoration, preservation and protection of all COMMON STREETS AND ROADS, the SURFACE WATER MANAGEMENT SYSTEM and all other COMMON PROPERTY and for such other purposes as its BOARD, in its reasonable discretion, shall deem necessary or appropriate.
- 4.3.5 Sue and Be Sued. To sue and be sued and to defend any suit.
- 4.3.6 Borrow Money. Subject to the limitations specified in Section 4.4 of these ARTICLES, to borrow such money as may reasonably be required to discharge and perform the duties, responsibilities and obligations imposed upon the ASSOCIATION pursuant to the DECLARATION and these ARTICLES.
- 4.3.7 Employ and Contract. To employ such PERSONS or to contract with such independent contractors or managing agents as shall be reasonably required in order for the ASSOCIATION to carry out, perform and discharge all or any part of its duties, obligations and responsibilities pursuant to the DECLARATION and these ARTICLES; provided, however, that any such employment contract or contract with any independent contractor or managing agent for a term of more than one (1) year shall, by its express terms, be terminable:
- (i) for cause at any time on not more than sixty (60) days written notice by the ASSOCIATION; and
  - (ii) without cause at any time after one (1) year on not more than sixty (60) days written notice by either party; and, provided further, that any such contracts shall otherwise be subject to the provisions of Section 4.4 of these ARTICLES.
- 4.3.8 Provide Insurance. To provide and contract for such insurance protection on and for the ASSOCIATION and the COMMON PROPERTY and, consistent with their respective duties, responsibilities and liabilities on and for the members, officers and directors of the ASSOCIATION as well as on and for the members of the ARCHITECTURAL REVIEW BOARD established pursuant to the DECLARATION.
- 4.3.9 Provide Security Services. To provide such equipment, facilities and personnel, or to contract with an independent contractor therefore, as may be reasonably necessary to provide internal protection, security services for and within ISLAND VILLAS.
- 4.3.10 Provide Cable Television Service. To provide such equipment, facilities and personnel, or to contract with an independent contractor therefore, as may be reasonably necessary to provide a central cable television system within ISLAND VILLAS, including its own central community antenna cable television system at the sole option of the BOARD and the DEVELOPER.

- 4.3.11 Provide Public or Quasi-Public Services. To itself provide equipment, facilities and personnel for, or to contract with an independent contractor or independent contractors, for such public or quasi-public services as may be deemed by the ASSOCIATION to be reasonably necessary or desirable for the common health, safety and general welfare of the residents of ISLAND VILLAS and the ISLAND VILLAS community generally, including, without limitation, internal security and protection services, garbage and trash pickup and disposal services, cable television services, street-lighting services, irrigation services, water and sewer services, grounds maintenance services, and social director services.
- 4.3.12 Enforce DECLARATION. To take such steps as may be necessary to enforce the provisions of the DECLARATION, including, without limitation the employment of counsel and the institution and prosecution of litigation to enforce the provisions of the DECLARATION, including, without limitation, such litigation as may be necessary to collect assessments and foreclose liens for which provisions are made in the DECLARATION.
- 4.3.13 Establish and Enforce RULES AND REGULATIONS. To make, establish, promulgate and publish, and to enforce such RULES AND REGULATIONS for the protection and governing the use of the COMMON PROPERTY as the BOARD deems to be in the best interest of the ASSOCIATION and its members.
- 4.3.14 Other Activities. To engage in any and all other activities permitted to be engaged in by a corporation not-for-profit under the laws of the State of Florida as may be necessary or appropriate for the achievement of the objects and purposes for which the ASSOCIATION has been created, formed and established.
- 4.4 Limitation on Powers. In addition to such other restrictions or limitations on the powers of the ASSOCIATION as may be imposed by law, elsewhere in these ARTICLES, in the BY-LAWS of the ASSOCIATION or in the DECLARATION, and without limiting the generality of any thereof, the ASSOCIATION shall be prohibited from taking any of the following actions without the prior approval of a majority of the total voting power of the ASSOCIATION, to wit:
- 4.4.1 Contracts for a Term in Excess of One Year. The entry into any employment contracts or other contracts for the delivery of services or materials to the ASSOCIATION having a term in excess of one (1) year, except in the case of prepaid insurance, casualty or liability contracts or policies for not more than three (3) years duration; provided that the applicable contract or policy provides for and permits short rate cancellation by the insured.
- 4.4.2 Pledge of ASSESSMENT Rights. The borrowing of any funds secured by a pledge, assignment or encumbrance of the right and duty of the ASSOCIATION to exercise its power to establish, make, levy, impose, enforce and collect any ASSESSMENTS for which provision is made in the DECLARATION whereby as a result of such pledge, assignment or encumbrance such right and power of assessment may be exercised by a party other than the ASSOCIATION or whereby the ASSOCIATION shall become obligated to establish, levy, enforce and collect any ASSESSMENT or ASSESSMENTS in a particular amount or within a particular time so as to effectively divest from the ASSOCIATION and its BOARD the right, duty and discretion to establish, make, levy, impose, enforce and collect ASSESSMENTS in such amounts and within such time periods as the BOARD of the ASSOCIATION, in its discretion, shall deem to be necessary and reasonable.

It is expressly provided, however, that the foregoing limitation and restriction upon the pledge, assignment or encumbrance of assessment rights herein contained shall not preclude the ASSOCIATION from pledging or making an assignment of or otherwise encumbering the proceeds of any ASSESSMENT which is then payable to or which will thereafter, in the ordinary course of the ASSOCIATION's business, become payable to the ASSOCIATION; provided that any such assignment, pledge or encumbrance, though then presently effective, shall allow and permit any such ASSESSMENTS to continue to be paid to and used by the ASSOCIATION as set forth in the DECLARATION unless and until the ASSOCIATION shall default on the repayment of the debt which is secured by such pledge, assignment or encumbrance.

- 4.4.3 Capital Expenditures in Excess of Fifteen Percent (15%) of COMMON EXPENSES. The expenditure in any single calendar year of an amount for capital acquisitions or capital improvements to the COMMON PROPERTY in excess of fifteen percent (15%) of the estimated total of COMMON EXPENSES for the calendar year, except such capital improvements as may be paid for by application of funds in a reserve account specifically established for that purpose.
- 4.4.4 Sale or Transfer of Real Property. The sale, transfer or other disposition, whether or not for consideration, of any real property owned by the ASSOCIATION as COMMON PROPERTY provided, however, in no event shall the ASSOCIATION be entitled or empowered to sell, convey or transfer and real property constituting COMMON PROPERTY transferred and conveyed by the DEVELOPER to the ASSOCIATION pursuant to the provisions of Section 8.1 of the DECLARATION without first receiving the prior written consent of the DEVELOPER.
- 4.4.5 Payment of Compensation to Officers or Directors. The payment to the elected directors or to officers of the ASSOCIATION for services performed in the conduct of their duties as such director or officer of the ASSOCIATION; provided, however, that nothing herein contained shall preclude the ASSOCIATION from reimbursing any such elected director or officer for reasonable expenses actually incurred and paid by any such elected director or officer in the conduct of the business and affairs of the ASSOCIATION; and provided, further, that nothing herein contained shall preclude the employment by the ASSOCIATION and payment of compensation to a manager, executive director, or management corporation of the ASSOCIATION who shall not be an elected director or officer of the ASSOCIATION.

## ARTICLE V

### MEMBERSHIP

- 5.1 Membership. Every OWNER shall automatically and mandatorily be a member of the ASSOCIATION upon becoming an OWNER. Additionally, the DEVELOPER shall automatically and mandatorily be a member of the ASSOCIATION. The DEVELOPER's membership shall not require approval of the ASSOCIATION. Membership may not be refused, waived or surrendered, but a member's voting rights and use and enjoyment of the COMMON PROPERTY may be regulated or suspended as provided in the DECLARATION, these ARTICLES, the BY-LAWS and the RULES AND REGULATIONS of the ASSOCIATION.

- 5.2 Transfer of Membership. Membership in the ASSOCIATION shall be appurtenant to and may not be separated from the ownership interest of an OWNER in the LOT, piece, parcel or tract of land within the SUBJECT PROPERTY owned by such OWNER. The membership of an OWNER in the ASSOCIATION shall not be transferred, pledged or alienated in any way, except that such membership shall automatically be transferred and assigned to a transferee upon the transfer of the ownership interest required for membership in the ASSOCIATION. The ASSOCIATION shall have the right to record any such automatic transfer upon the books and records of the ASSOCIATION without any further action or consent by the transferring OWNER or any transferee OWNER. Any attempt to make a prohibited transfer of membership, however, shall be void and of no force and effect and will not be reflected upon the books and records of the ASSOCIATION.
- 5.3 Members' Rights. The rights of every member of the ASSOCIATION shall be subject to and governed by the terms and provisions not only of the DECLARATION and these ARTICLES, but, in addition, shall at all times be subject to the terms and provisions of the BY-LAWS and RULES AND REGULATIONS of the ASSOCIATION.

## ARTICLE VI

### VOTING RIGHTS

- 6.1 Vesting of Voting Rights. An OWNER's right to vote shall vest immediately upon such OWNER's qualification for membership as provided in these ARTICLES, the BY-LAWS and the DECLARATION. All voting rights of a member shall be exercised in accordance with and subject to the restrictions and limitations provided in the DECLARATION, these ARTICLES, the BY-LAWS and the RULES AND REGULATIONS of the ASSOCIATION.
- 6.2 Membership; Number of Votes. On all matters upon which the membership shall be entitled to vote, there shall be only one vote for each LOT. Provided, however, that in the event that two (2) or more contiguous LOTS or one LOT and a portion of another LOT are owned in common by the same OWNER and combined, developed, and improved by such OWNER as a single unified residential homesite, the OWNER of any such combination of LOTS shall only be entitled to one vote for each such combination of LOTS so owned, upon acceptance by the ASSOCIATION as one LOT and one ASSESSMENT, as set forth in Section 9.8.2.A and B of the DECLARATION.

The OWNER shall be eligible for one vote and no fraction thereof. During such time as ASSESSMENTS are paid for more than one LOT and prior to the acceptance of the ASSOCIATION of the combination of whole or fractional LOTS into single LOTS, the voting rights shall be divided in that same direct proportion as the ASSESSMENTS are made relative to the ownership proportion.

When more than one PERSON or entity holds the ownership interest required for membership in the ASSOCIATION, each such PERSON or entity shall be a member, but the single vote of such members with respect to the LOT owned by them shall be exercised as they, among themselves, determine. However, in no event shall more than one vote be cast with respect to any LOT which is owned by more than one PERSON or entity. The ASSOCIATION may, but shall not be obligated to, recognize the vote or written assent of particular co-owner who or which is designated by all co-owners entitled to cast the vote attributable to the LOT owned by such co-owners, provided that such written designation shall be delivered to the ASSOCIATION not less than twenty-four (24) hours prior to the taking of the particular vote in question.

ARTICLE VII

BOARD OF DIRECTORS

- 7.1 Purpose. The property, business, and affairs of the ASSOCIATION shall be managed and governed by a BOARD OF DIRECTORS of the ASSOCIATION.
- 7.2 Number. The number of directors on the BOARD OF DIRECTORS from time to time shall never be less than three (3) nor more than nine (9), but shall always be an odd number. The number of directors shall be determined from time to time by the BOARD and may be increased or decreased by the BOARD from time to time, but shall never be less than three (3).
- 7.3 Qualification. Except for the initial directors designated in Section 7.6 of these ARTICLES and any directors thereafter from time to time appointed or elected by the DEVELOPER, all directors of the ASSOCIATION must be members of the ASSOCIATION in good standing.
- 7.4 Term of Office. The directors shall serve for a period of one year ending on the date of the annual meeting, or until such director's resignation or removal, pursuant to the DECLARATION, these ARTICLES, and the BY-LAWS.
- 7.5 Election of Directors. Subject to the terms and provisions of Sections 7.7 and 7.8 of these ARTICLES, the directors of the ASSOCIATION shall be elected by majority vote of the members of the ASSOCIATION in accordance with these ARTICLES and the BY-LAWS of the ASSOCIATION at the regular annual meeting of the members of the ASSOCIATION or at a special meeting of the members of the ASSOCIATION duly called for such purpose.
- 7.6 Initial Board of Directors. The Board of Directors shall initially consist of three (3) directors. The names and address of the members of the initial BOARD who shall hold office and serve until their successors are elected or appointed or until they are removed in accordance with these ARTICLES and the BY-LAWS of the ASSOCIATION are as follows:

<u>ADDRESS</u>	<u>NAME</u>	
	DAVID T. McWILLIAMS	1790 HIGHWAY A1A, SUITE 206 SATELLITE BEACH, FL 32937
	JOAN McWILLIAMS	701 TRADEWINDS DRIVE INDIAN HARBOUR BEACH, FL 32937
	TIMOTHY F. McWILLIAMS	492 E. EAU GALLIE BLVD. INDIAN HARBOUR BEACH, FL 32937

- 7.7 Directors Appointed by the DEVELOPER. The DEVELOPER shall have the right to appoint a majority of the Directors until the DEVELOPER has conveyed at least eighty-five percent (85%) of the planned LOTS within ISLAND VILLAS or until ten (10) years after the DECLARATION is recorded in the Public Records of the COUNTY, whichever occurs first, and thereafter shall have the right to appoint one Director so long as the DEVELOPER owns any LOT. The DEVELOPER may waive its right to elect one or more Directors by written notice to the ASSOCIATION and, thereafter, such Directors shall be elected by the members. When the DEVELOPER no longer owns any LOT within ISLAND VILLAS, all of the Directors shall be elected by the members in the manner provided in the BY-LAWS.

- 7.8 Directors Elected by the Members. The members shall have the right to elect one member to the BOARD when the DEVELOPER has conveyed fifty percent (50%) of the planned LOTS within ISLAND VILLAS. The Director shall be elected by the members in the manner as provided in the BY-LAWS.
- 7.9 Duties and Powers. All of the duties and powers of the ASSOCIATION existing under and pursuant to Chapter 617 Florida Statutes, the DECLARATION, these ARTICLES and the BY-LAWS shall be exercised exclusively by the BOARD, subject to approval by the members of the ASSOCIATION only when specifically required.
- 7.10 Removal. Directors may be removed and vacancies on the BOARD shall be filled in the manner provided for by the BY-LAWS. However, any Director appointed by the DEVELOPER may only be removed by the DEVELOPER, and any vacancy on the BOARD shall be appointed by the DEVELOPER, if, at the time such vacancy is to be filled, the DEVELOPER is entitled to appoint the Directors.
- 7.11 Federal Income Tax Election. The BOARD of the ASSOCIATION shall have the power and the authority to cause the ASSOCIATION to make the annual election with respect to the ASSOCIATION's federal income tax treatment under Section 528 of the Internal Revenue Code of 1954, as amended from time to time.

#### ARTICLE VIII

##### OFFICERS

- 8.1 Officers, Generally. The affairs of the ASSOCIATION shall be administered by a President, Vice President, Secretary, Assistant Secretary, Treasurer and such other officers as the BOARD may from time to time by resolution create. The offices of the Vice President, Secretary and Treasurer or any other offices may be combined from time to time by the BOARD in its discretion, except that the office of President shall not be combined with any other office.
- 8.2 Election. Except as hereinafter provided with respect to the initial officers of the ASSOCIATION, the officers of the ASSOCIATION shall be elected by the directors of the ASSOCIATION from among themselves at a meeting of the directors held immediately following the termination of the annual meeting of the members at which the directors are elected.
- 8.3 Term. All officers of the ASSOCIATION shall hold office for a term of one (1) year or until their successors are elected, but may be removed from office by the BOARD, with or without cause, at any time.
- 8.4 Duties of Officers. The duties of the officers shall be as set forth in the BY-LAWS of the ASSOCIATION.
- 8.5 Initial Officers. The names, titles and addresses of the initial officers of the ASSOCIATION who shall hold office and serve until their successors elected are as follows:



<u>OFFICE</u>	<u>NAME/ADDRESS</u>
PRESIDENT	DAVID T. McWILLIAMS 1790 HIGHWAY A1A, SUITE 206 SATELLITE BEACH, FL 32937
VICE PRESIDENT	TIMOTHY F. McWILLIAMS 492 E. EAU GALLIE BLVD INDIAN HARBOUR BEACH, FL 32937
SECRETARY/ TREASURER	JOAN McWILLIAMS 1790 HIGHWAY A1A, SUITE 206 SATELLITE BEACH, FL 32937

- 8.6 Vacancy Before First Meeting. In the event of a vacancy in any office of the ASSOCIATION prior to the first annual meeting of the members of the ASSOCIATION, such vacancy shall be filled by an individual appointed by the DEVELOPER.

#### ARTICLE IX

##### TRANSACTIONS IN WHICH OFFICERS OR DIRECTORS ARE INTERESTED

- 9.1 Contracts Valid. All contracts or transactions between the ASSOCIATION and any other individual, corporation, partnership, association, or other organization or entity in which one or more of the officers or directors of the ASSOCIATION are officers or directors, or has a direct or indirect financial interest, including the DEVELOPER and any affiliate of the DEVELOPER, shall be as valid as if the same were engaged in or entered into by or with a disinterested party. No such contract or transaction shall be invalid, void, or voidable solely for this reason, or solely because the officer or director is present at or participates in the meeting of the BOARD which authorized the contract or transaction, or solely because the vote of said officer or director is counted for such purpose. No officer or director of the ASSOCIATION shall incur liability by reason of the fact that said officer or director may be interested in any such contract or transaction.
- 9.2 Interested Directors Counted in Quorum. Interested directors may be counted in determining the presence of a quorum at any meeting of the BOARD at which a contract or transaction in which such director may be interested is authorized.
- 9.3 Duty to Disclose. Notwithstanding the foregoing, any officer or director of the ASSOCIATION shall have a duty to disclose to the BOARD of the ASSOCIATION that such officer or director is also an officer or director of or otherwise has a financial interest, direct or indirect, in any individual or business organization or entity with which the ASSOCIATION proposes to contract or otherwise transact business. Such disclosure shall be reflected in the minutes of the meeting at which any vote is taken on a proposed contract or business transaction with any individual or business organization or entity in which an officer or director of the ASSOCIATION has any interest.

ARTICLE X

INDEMNIFICATION AND RELEASE OF OFFICERS AND DIRECTORS

- 10.1 Indemnification. Every officer and every director of the ASSOCIATION shall be indemnified by the ASSOCIATION against all expenses and liabilities, including reasonable attorneys' fees, incurred by or imposed upon him in connection with any proceeding to which he may be a party or in which he may become involved by reason of his being or having been an officer or a director of the ASSOCIATION, or in connection with or on account of any settlement thereof, whether or not he is an officer or a director of the ASSOCIATION at the time that such expenses and liabilities are incurred, except in such cases wherein any such officer or director is judged guilty of willful misfeasance or malfeasance in the performance of his duties; provided, however, that any claim for reimbursement or indemnification hereunder may be settled with the approval of the BOARD in the best interest of the ASSOCIATION.
- 10.2 Right of Indemnification Cumulative, Not Exclusive. The right of Indemnification provided by this Article X shall be in addition to and not exclusive of and shall not be deemed to limit, in any way, the powers of the ASSOCIATION to indemnify any officer or director and the right of any officer or director to be indemnified by the ASSOCIATION by or under the common law or statutory laws or the State of Florida, the DECLARATION, the BY-LAWS or otherwise.
- 10.3 Release of Officers and Directors. The resignation or expiration of the term of office of, or the removal or replacement of, a director who has been elected or designated by the DEVELOPER, including those directors initially designated in these ARTICLES, and the resignation or expiration of the term of office of or the removal or replacement of an officer of the ASSOCIATION who has been appointed by the initial BOARD, including those officers initially designated in these ARTICLES, shall remise, release, acquit, satisfy and forever discharge such director or officer of and from all manner of action and actions, cause and causes of actions, suits, debts, covenants, contracts, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which the ASSOCIATION or any of its members, other than DEVELOPER, had, now have, or which any heir, personal representative, successor or assign of the ASSOCIATION or its members, other than DEVELOPER hereafter can, shall or may have against any such director or officer of the ASSOCIATION for, upon, or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of such director's or officer's resignation, removal or replacement or the expiration of such director's or officer's term of office.

ARTICLE XI

BY-LAWS

The initial BY-LAWS of the ASSOCIATION shall be adopted by the BOARD and may be altered, amended or rescinded in the manner provided by the BY-LAWS. No amendment to the BY-LAWS shall change the rights and privileges of the DEVELOPER without its approval. In the event of any conflict between the provisions of these of ARTICLES and the provisions of the BY-LAWS, the provisions of these ARTICLES will control.

ARTICLE XII

AMENDMENTS

12.1 Amendments, Generally. These ARTICLES may only be changed, amended, modified or rescinded in the following manner:

12.1.1 Resolution of Board of Directors. The BOARD shall initially propose any amendments to these ARTICLES. Any such proposal shall be by resolution duly adopted by the BOARD setting forth the specific terms and provisions of the proposed amendment and directing that the proposed amendment be submitted to a vote of the members of the ASSOCIATION at the next annual meeting or at a special meeting of the members of the ASSOCIATION duly called for such purpose.

12.1.2 Notice of Meeting. Written notice setting forth the date and time of the meeting at which the proposed amendment is to be voted upon and also setting forth the specific terms and provisions of proposed amendment, or a summary of the changes to be effected by the proposed amendment, shall be given in accordance with the provisions of the BY-LAWS to each member of the ASSOCIATION entitled to vote thereon. Such meeting may not occur less than fifteen (15) days nor more than sixty (60) days from the date of the giving of the notice of the meeting at which the proposed amendment is to be considered and voted upon.

12.1.3 Vote of Members. A vote of the members of the ASSOCIATION entitled to vote thereon, shall be taken on the proposed amendment at the meeting of which notice has been given as provided in Section 12.1.2 above. The proposed amendment shall be adopted upon receiving the affirmative vote of three-fourths (3/4ths) of the votes of the members of the ASSOCIATION cast at such meeting, whether in PERSON or by proxy.

Any number of amendments may be proposed by the BOARD and voted upon by the members of the ASSOCIATION at any one meeting.

12.2 Written Consent. Notwithstanding anything to the contrary set forth in this Article XII, if a majority of the directors and such number of the members of the ASSOCIATION as eligible to vote and cast two-thirds (2/3) of the total voting power of the ASSOCIATION sign a written statement manifesting their intention that an amendment to these ARTICLES be adopted, then the amendment shall thereby be adopted although the requirements of Section 12.1 of these ARTICLES had been satisfied.

12.3 ARTICLES of Amendment. Upon the approval of an amendment to these ARTICLES in accordance with the provisions of this Article XII, the officers of the ASSOCIATION shall cause ARTICLES of Amendment to be executed and delivered to the Office of the Secretary of State of the State of Florida as provided by law.

12.4 Limitations on Amendments.

12.4.1 Notwithstanding anything to the contrary set forth in the DECLARATION, these ARTICLES or the BY-LAWS of the ASSOCIATION, these ARTICLES may not be changed, amended, modified or rescinded in any fashion or respect which would result in any change, amendment, modification, diminution or elimination of or otherwise affected the rights, privileges of or benefits accruing hereunder to either the DEVELOPER, the CITY, INSTITUTIONAL LENDERS, the St. Johns Water Management District without first receiving the prior written consent and approval of the DEVELOPER and such other of these parties as may be or whose rights, privileges, benefit or interest may be adversely or otherwise affected by any such amendment to these ARTICLES.

- 12.4.2 No amendment to these ARTICLES shall be made which discriminates against any OWNERS or affects less than all of the OWNERS within ISLAND VILLAS, without the written approval of all of the OWNERS so discriminated against or affected.

### ARTICLE XIII

#### DURATION AND DISSOLUTION

- 13.1 Duration. The ASSOCIATION shall have perpetual existence, unless dissolved in accordance with the provisions of Chapter 617 Florida Statutes and as otherwise set forth in this Article XIII.

- 13.2 Dissolution. Upon dissolution of the ASSOCIATION, the property and assets of the ASSOCIATION remaining after payment of all creditors of the ASSOCIATION and the costs and expenses associated with such dissolution shall be distributed to any other corporation not-for-profit which is created and established for purposes similar to this ASSOCIATION or to the CITY, the COUNTY, or any other public agency for similar purposes; provided, however, that, notwithstanding the foregoing or following provisions of this Section 13.2 that portion of the COMMON PROPERTY comprising the SURFACE WATER MANAGEMENT SYSTEM shall be distributed only as provided in Section 13.3 of these ARTICLES.

In the event that, upon dissolution, another corporation not-for-profit shall not be created and established as hereinabove provided in this Section 13.2, or in the event that the CITY, the COUNTY, or any other public agency shall refuse to accept a proposed and distribution to it of the property and assets of the ASSOCIATION, any member of the ASSOCIATION or any other interested party shall be entitled to petition the Circuit Court of the Eighteenth Judicial Circuit in and for Brevard County, Florida for the establishment of a trust or the creation of a corporation not-for-profit or other legal entity for purposes similar to that of this ASSOCIATION. Any COMMON PROPERTY so distributed upon dissolution of the ASSOCIATION, as aforesaid, shall continue to be subject to and encumbered by the terms and provisions of the DECLARATION and such other restrictions and limitations as may have been imposed upon such COMMON PROPERTY in the instrument by which title thereto was originally conveyed by the DEVELOPER to the ASSOCIATION.

- 13.3 Disposition of SURFACE WATER MANAGEMENT SYSTEM on Dissolution. Notwithstanding the foregoing provisions of Section 13.2 of these ARTICLES, upon dissolution of the Association, that portion of the COMMON PROPERTY comprising the SURFACE WATER MANAGEMENT SYSTEM shall be granted, conveyed, assigned or dedicated by the ASSOCIATION to an appropriate governmental body, agency or utility to which such grant, conveyance, assignment or dedication is offered, the property comprising the SURFACE WATER MANAGEMENT SYSTEM shall be granted, conveyed, assigned or dedicated to a corporation not-for-profit, an association, trust or other legal organization or entity, approved by the St. Johns Water Management District.

In the absence of any such grant, conveyance, assignment or dedication of the property comprising the SURFACE WATER MANAGEMENT SYSTEM in accordance with the foregoing provisions of this Section 13.3, any member of the ASSOCIATION, the COUNTY or the Saint John's Water Management District shall be entitled to petition the Circuit Court of the Eighteenth Judicial Circuit in and for Brevard County, Florida for the establishment of a trust or the creation of a corporation not-for-profit or other legal entity so created for such purpose.

ARTICLE XIV

NON-PROFIT STATUS

No part of the net earnings of the ASSOCIATION shall inure to the benefit of any of its members or any other individual. Accordingly, the ASSOCIATION shall not carry on any activity for the profit of its members, or distribute any gains, profits, or dividends to any of its members as such, or engage, except to an insubstantial degree, in any activities which are not in furtherance of the specific and primary objects and purposes of the ASSOCIATION. The ASSOCIATION may however, provide a rebate, reimbursement or refund of excess membership dues, fees or ASSESSMENTS to its members. In determining whether there should be any such rebate, reimbursement or refund, the earnings of the ASSOCIATION are not to be taken into account in any manner.

ARTICLE XV

REGISTERED OFFICE AND AGENT

The street and mailing address of the initial registered office of the ASSOCIATION shall be 1790 NORTH A1A, SUITE 101, SATELLITE BEACH, FLORIDA 32937, and the initial registered agent of the ASSOCIATION at that address shall be DAVID T. McWILLIAMS, subject at all times to the right of the ASSOCIATION to change either or both the registered office and the registered agent of the ASSOCIATION in the manner provided by the laws of the State of Florida from time to time. The above is also the mailing address for the corporation.

ARTICLE XVI

INCORPORATOR

The name and address of the incorporator of the ASSOCIATION is:

SANDY POINT LAND DEVELOPMENT CORP.  
1790 NORTH A1A, SUITE 101  
SATELLITE BEACH, FLORIDA 32937

IN WITNESS WHEREOF, the undersigned corporation has executed these Articles of Incorporation as of the 30th day of September, 1992.

SANDY POINT LAND DEVELOPMENT CORP.

BY: DAVID T. McWILLIAMS, PRESIDENT

(CORPORATE SEAL)

STATE OF FLORIDA

COUNTY OF BREVARD

I hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgements, personally appeared DAVID T. McWILLIAMS, PRESIDENT of SANDY POINT LAND DEVELOPMENT CORP., a Florida corporation authorized to do business in the State of Florida, on behalf of said corporation, known to me to be the person described in and who executed the foregoing instrument, who acknowledged before me that he executed the same, that I relied upon the following form of identification of the above-named person: Florida Drivers License and that an oath was taken.

Dated: Sept. 30, 1992

MY COMMISSION EXPIRES:

Rachelle M. Farnier  
Notary Public



FILED  
1992 OCT -2 AM 9:36  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

ACCEPTANCE OF REGISTERED AGENT

The undersigned hereby accepts the designation as Registered Agent of ISLAND VILLAS HOMEOWNERS ASSOCIATION, INC.



DAVID T. McWILLIAMS

FILED

1992 OCT - 2 AM 9:36

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

REGISTERED AGENT FILING FORM



\$37.50

269189

92 OCT 29 PM 2:49

TURN TO:  
S. 2000  
47 W. New Haven Ave., Suite 200  
Melbourne, FL 32901

SECOND AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF ISLAND VILLAS

Sandy Point Land Development Corp., a Florida corporation, (hereinafter referred to as "DEVELOPER"), hereby files this Second Amendment To Declaration Of Covenants And Restrictions of Island Villas.

WHEREAS, on October 14, 1992, DEVELOPER caused the Declaration Of Covenants And Restrictions Of Island Villas to be recorded in Official Records Book 3237, Pages 0784 through 0820, inclusive, of the Public Records of Brevard County, Florida, which said covenants, restrictions and easements control the use of the described property in said Declaration; and

WHEREAS, On October 23, 1992, DEVELOPER caused an Amendment To Declaration Of Covenants And Restrictions Of Island Villas to be recorded in Official Records Book 3239, pages 3089 through 3112, inclusive, of the Public Records of Brevard County, Florida;

WHEREAS, Section 4.09 of said Declaration and paragraph 3 of the Amendment, refers to the Deed Of Conservation Easement, as being attached as Exhibit "B", however, said Exhibit "B" was not attached to said Declaration or Amendment nor was it recorded as an exhibit to said documents.

NOW, THEREFORE, DEVELOPER further amends the Declaration Of Covenants And Restrictions Of Island Villas in the following:

1. Section 4.09 of the Declaration and Paragraph 3 of the Amendment are hereby amended to read as follows:

"4.09 Conservation Easement. There has been created an easement for the protection of the wetlands shoreline vegetation of the SUBJECT PROPERTY. See Deed of Conservation Easement as recorded on September 28, 1992, in Official Records Book 3232, Page 2642, in the Public Records of Brevard County, Florida, and is attached hereto as Exhibit "B"."

All references to Exhibit "B" in the Declaration and first Amendment shall refer to this Exhibit "B".

*DeWinstead*  
Clerk Circuit Court

Recorded and Verified Brevard County, FL  
# Pgs. 8 # Names 2  
Trust Fund 4.50 Rec Fee 33.60  
Stamp-Deed \_\_\_\_\_ Excise Tx \_\_\_\_\_  
Stamp-Mtg \_\_\_\_\_ Int Tx \_\_\_\_\_  
Service Chg \_\_\_\_\_ Refund \_\_\_\_\_

BK 3241 PG 0476

2. All of the remaining terms and conditions of said Declaration and first Amendment not in conflict with this Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the DEVELOPER has hereunto set its hand and seal this 28<sup>th</sup> day of October, 1992.

SIGNED, SEALED & DELIVERED  
IN THE PRESENCE OF:

Rachelle M. Farmer  
James S. Moore

SANDY POINT LAND DEVELOPMENT CORP.

BY: [Signature]  
David T. McWilliams, President

ATTEST:

Rachelle M. Farmer  
James S. Moore

[Signature]  
David T. McWilliams, Secretary

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledge before me this 28<sup>th</sup> day of October, 1992, by David T. McWilliams, President and Secretary of Sandy Point Land Development Corp., a Florida corporation authorized to do business in the State of Florida. He is personally known to me and did take an oath.

Rachelle M. Farmer  
Notary Public

My Commission Expires:



Return to:  
David T. McWilliams  
1790 Highway A1A, Suite 206  
Satellite Beach, FL 32937

*Recorded* Clerk Circuit Court  
Recorded and Verified Brevard County, FL  
# Pgs. 6 # Names 2  
Trust Fund 3.60 Rec Fee 25.00  
Stamp-Deed .70 Exgise Tx \_\_\_\_\_  
Stamp-Mtg \_\_\_\_\_ Int Tx \_\_\_\_\_  
Service Chg 7.00 Refund \_\_\_\_\_

DEED OF CONSERVATION EASEMENT

ISLAND VILLAS

THIS GRANT DEED OF CONSERVATION EASEMENT is made this 25 day of September, 1992 by Sandy Point Land Development Corporation, having an address at 1790 Highway A1A, Suite 206, Satellite Beach, Florida, 32937 hereinafter referred to as "Grantor", in favor of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, a public body existing under Chapter 373, Florida Statutes, having a mailing address at P.O. Box 1429, Palatka, Florida 32078-1429 ("Grantee").

250638

WITNESS:

WHEREAS, Grantor is the sole owner in fee simple of certain real property in Brevard County, Florida, more particularly described in Exhibit "A" attached hereto and incorporated by this reference (the "Property"); and

92 SEP 28 AM 10: 21

WHEREAS, the Property possesses environmental value (the "environmental value") of great importance to the Grantor and to the people of Brevard County, Florida; and

WHEREAS, Grantor intends, as owner of the Property, to convey to Grantee the right to preserve and protect the environmental value of the Property in perpetuity; and

WHEREAS, Grantee agrees by accepting this Grant to honor the intentions of Grantor stated herein, and to preserve and protect in perpetuity the environmental value of the Property for the benefit of this generation and the generations to come;

NOW THEREFORE, in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to the provisions of 704.06, Florida Statutes, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth (the "Easement").

1. Purpose. It is the purpose of this Easement to assure that the Property will be retained forever except as herein

provided, in its existing natural condition and to prevent any use of the Property that will impair or interfere with the environmental value of the Property.

2. Rights of Grantee. To accomplish the purposes stated above, the following rights are conveyed to Grantee by this Easement:

(a) To preserve and protect the environmental value of the Property;

(b) To prevent any activity on or use of the Property that is inconsistent with this Easement, and to require the restoration of areas or features of the Property that may be damaged by a breach of this Easement.

(c) To enter upon and inspect the Property, in reasonable manner and at reasonable times to determine if the Grantor or its successors and assigns are complying with the covenants and prohibitions contained in this Conservation Easement; and

(d) To proceed at law or in equity to enforce the provisions of this Conservation Easement and the covenants set forth herein, and to prevent the occurrence of any of the prohibited activities hereinafter set forth.

3. Prohibited Uses. Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited without the prior written approval of the Grantee:

(a) Construction or placing of buildings, roads, signs, billboards or other advertising, or other structures on or above the ground, unless otherwise permitted in this Easement;

(b) Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive materials;

(c) Removal or destruction of living trees, shrubs, or other vegetation;

(d) Excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substances in such a manner as

forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of the Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

7. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from natural causes or other causes beyond Grantor's control, including, without limitation, fire, flood, storm and earth movement, or from any action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property resulting from such causes.

8. Assignment. This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under section 170(h) of the Internal revenue Code of 1954, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold environmental easements under the statutes of the State of Florida (or any successor provision then applicable). As a condition of such transfer, Grantee shall require that the environmental purposes that this Grant is intended to advance, continue to be carried out.

9. Recordation. Grantor shall record this instrument in timely fashion the official records of Brevard County, Florida, and may re-record it any time as may be required to preserve its rights in this Easement.

10. Successors. The covenants, terms, conditions and restrictions of this Easement shall be binding upon, and insure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue

to affect the surface, unless proper permits have been obtained;

(e) surface use, except for purposes that permit the land or water area to remain predominantly in its natural condition;

(f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation; and

(g) Acts or uses detrimental to such retention of land or water areas.

4. Allowed Uses. Normal maintenance of this area is allowed. Without limiting the generality of the foregoing, the following activities and uses are allowed with the prior written approval of the Grantee:

(a) Removal of exotic plant types such as Brazilian Pepper Trees;

(b) Removal of dead plants, or dead branches on plants as approved by the Grantee;

(c) Pruning of plants as approved by the Grantee (Mangrove trimming is prohibited unless permitted pursuant to Chapter 17-321 F.A.C.);

(d) Construction of docks over and across this area provided the docks are equal to or less than four (4) feet in width; and

(e) No more than twelve (12) dock walkways shall be allowed over and across this area; and

(f) Other approved work set forth by permit(s) obtained through Grantee.

5. Reserved Rights. Grantor reserves and excepts unto itself and its personal representatives, heirs, successors and assigns, all rights accruing from its ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement.

6. Grantee's Discretion. Enforcement of the terms of this Easement shall be at the discretion of the Grantee, and any

as a servitude running in perpetuity with the Property.

IN WITNESS WHEREOF, The said Grantor have signed and sealed these presents the day and year above written

Signed, Sealed and delivered in the presence of:

Sandy Point Land Development Corporation

Mary Ann Every  
Witness Signature

Mary Ann Every  
Printed Name

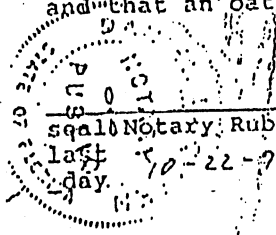
BY [Signature]  
David T. McWilliams  
President/Secretary  
1790 Highway A1A, Suite 206  
Satellite Beach, FL 32937

Rebecca H. Jones  
Witness Signature

Rebecca H. Jones  
Printed Name

STATE OF Florida  
COUNTY OF Brevard

I hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared DAVID T. McWILLIAMS known to me to be the person described in and who executed the foregoing instrument, who acknowledged before me that HE executed the same, that I relied upon the following form of identification of the above-named person: \_\_\_\_\_ and that an oath (~~was~~) (was not) taken.



Notary Rubber Stamp Seal  
last day 10-22-92

Witness my hand and official in the County and State aforementioned on this 25 of SEPT, 1992.

[Signature]  
Notary Signature

DANIEL L. GREEN  
Printed Notary Signature

Island Villas Homeowners Association  
P.O. Box 373057  
Indian Harbor Beach, Florida 32937

June 11, 2007

Re: Certificates of Amendment to the By-Laws, Declaration of Covenants  
and Restrictions of Island Villas Homeowners, Association, Inc.

---

Enclosed please find certificates of the amendments to the Island  
Villas Home Owners Association documents that were approved by the  
Owners at the February 17, 2007 Annual Meeting of Owners, certified on  
May 1, 2007 and filed with the Clerk of Brevard Courts on June 1, 2007.

Please keep these documents with your other Homeowners  
Association documents.

Respectfully submitted,  
Island Villas Homeowners Association Board of Directors.



Prepared by and Return to:  
Brian S. Hess, Esq.  
Clayton & McCulloh  
1065 Maitland Center Commons Blvd.  
Maitland, FL 32751

**CERTIFICATE OF AMENDMENT TO  
BY-LAWS OF ISLAND VILLAS HOMEOWNERS ASSOCIATION, INC.  
A FLORIDA CORPORATION NOT-FOR-PROFIT**

KNOW ALL MEN BY THESE PRESENTS:

That on this 1st day of May, 2007, the undersigned, ISLAND VILLAS HOMEOWNERS ASSOCIATION, INC. (hereinafter the "Association"), pursuant to Florida Statutes and the BY-LAWS OF ISLAND VILLAS HOMEOWNERS ASSOCIATION, INC., recorded in Official Records Book 3237, Page 0821, *et seq.*, of the Public Records of Brevard County, Florida, as amended and supplemented (hereinafter referred to as the "By-Laws"), hereby certifies that an Amendment to By-Laws, which Amendment is attached hereto and by reference made a part hereof, was duly adopted on the ~~February~~<sup>17th</sup> day of February, 2007. Said Amendment was approved pursuant to Article XIX, Section 19.1, of the By-Laws at the annual meeting of the members of the Association.

The Association conducted the regular meeting of the Board of Directors of the Association held in conjunction with the Annual Meeting of the members and passed the attached Amendment. Proper notice was given for the February 17, 2007 annual meeting of the members and regular meeting of the Board of Directors of the Association pursuant to the By-Laws of the Association (*i.e.*, the meeting where said Amendment was passed). Said Notice stated the purpose, time and place of the meeting.

At the regular meeting of the Board of Directors at which the Amendment was proposed and considered, the Amendment was approved by the affirmative vote of at least two-thirds (2/3) of the members of the Board of Directors.

With the exception of the above described Amendment, all other terms and conditions of the By-Laws shall remain in full force and effect.

IN WITNESS HEREOF, ISLAND VILLAS HOMEOWNERS ASSOCIATION, INC., has caused this AMENDMENT TO BY-LAWS OF ISLAND VILLAS HOMEOWNERS ASSOCIATION, INC. to be executed in its name, this 1st day of May, 2007.

Signed, sealed and delivered in the presence of:

Kim Edwards

(Sign)

Lauren Edwards

(Print)

[Signature]

(Sign)

Holly Waiters

(Print)

Kim Edwards

(Sign)

Lauren Edwards

(Print)

[Signature]

(Sign)

Holly Waiters

(Print)

ISLAND VILLAS HOMEOWNERS ASSOCIATION, INC.

By:

[Signature]

(Sign)

Richard Ballantyne

(Print)

President, Island Villas Homeowners Association, Inc.

Attest:

Kim Nicholas

(Sign)

Kim Nicholas

(Print)

Secretary, Island Villas Homeowners Association, Inc.

Association Address: PO Box 373057  
Indian Harbour Beach, FL 32937

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 1st day of May, 2007, by Richard Ballantyne, as President of Island Villas Homeowners Association, Inc., a Florida corporation, on behalf of the corporation, [ ] who is personally known to me or [X] who produced FLX B45375239 450 0 as identification.

NOTARY PUBLIC

[Signature]

State of Florida, At Large

My Commission Expires: 9/26/10



STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 1st day of May, 2007, by Kimberly Nicholas, as Secretary of Island Villas Homeowners Association, Inc., a Florida corporation, on behalf of the corporation, [ ] who is personally known to me or [X] who produced DL N242500 53 9190 as identification.

NOTARY PUBLIC

[Signature]

State of Florida, At Large

My Commission Expires:

9/26/10



AMENDMENT TO BY-LAWS  
OF  
ISLAND VILLAS HOMEOWNERS ASSOCIATION, INC.  
A FLORIDA CORPORATION NOT-FOR-PROFIT

The following amendment is made to BY-LAWS OF ISLAND VILLAS HOMEOWNERS ASSOCIATION, INC., recorded in Official Records Book 3237, Page 0821, *et. seq.*, of the Public Records of Brevard County, Florida (Additions are indicated by underlining, deletions are indicated by ~~strikethrough~~ and omitted but unaltered provisions are indicated by ellipses):

...

ARTICLE VII  
MEETINGS OF MEMBERS

7.1 Annual Meetings. The annual meeting of the members of the ASSOCIATION shall be held on the second Wednesday in February of each year, or other such time in January or February as deemed appropriate by the BOARD. ~~The first annual meeting of members shall be held on such date in February of a year deemed appropriate by the BOARD, then held annually thereafter at least once every calendar year.~~

...

7.5 Quorum. The presence at the meeting of members of the ASSOCIATION, or their proxies, entitled to cast ~~fifty-one~~ thirty percent (51% 30%) of the votes of the entire membership shall constitute a quorum for any action of members governed by these BY-LAWS.

...

ARTICLE IX  
BOARD OF DIRECTORS

...

9.4 Term of Office. The Directors shall serve for a period of one year ending on the date of the annual meeting, or until such director's resignation or removal, pursuant to the DECLARATION, the ARTICLES, and these BY-LAWS, until the commencement of the annual meeting of the members to be held in 2007. From and after the commencement of the annual meeting of the members to be held in 2007, the Directors shall serve terms of two years, except as hereinafter provided, and the members shall elect Directors for staggered terms. At the annual meeting of the Members in 2007, the Members shall elect at least two (2) Directors for a term of two (2) years and at least one (1) Director for a term of one (1) year. At the 2007 annual meeting, the two (2) Directors receiving the highest number of votes shall serve the aforementioned two (2) year terms and the one (1) Director receiving the next highest number of votes shall serve the aforementioned one (1) year term. At the

annual meeting of the Members in 2008, the Members shall elect at least one (1) Director for a term of two (2) years. Thereafter, all Directors shall serve two (2) year terms with at least two (2) Directors being elected in odd-numbered years and at least one (1) Director being elected in even-numbered years.

However, if the BOARD opts to increase the size of the BOARD above three (3) directors in accordance with Article IX of the Bylaws, as amended, in the sole determination of the BOARD, any additional director may be elected to a term of two years, and each additional director added may be elected in a staggered manner similar to the one described above.

...

## ARTICLE XII MEETINGS OF THE BOARD

- 12.1 All Business. The business and affairs of the ASSOCIATION may be transacted by the BOARD at any regular or special meeting.
- 12.2 Regular Meeting. Regular meetings of the BOARD may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but not less often than semi-annually, and after forty-eight (48) hours prior notice to the OWNERS, such notice to be given by posting the notice in a conspicuous place within the ASSOCIATION property. Additional notice, as may be required, shall be given in accordance with Florida law.
- 12.3 Special Meeting. Special meetings of the BOARD shall be held when called by the President or by a majority of directors after not less than two (2) days notice to each director, and after forty-eight (48) hours prior notice to the OWNERS, such notice to be given by posting the notice in a conspicuous place within the ASSOCIATION property, except in an emergency, to the extent allowed by Florida law.

...

- 12.8 Open Meeting. Any meeting of the BOARD of the ASSOCIATION shall be open to all members of the ASSOCIATION for purposes of observation, except as allowed otherwise by Florida law. Member participation at BOARD meeting may or may not be permitted within the sole and absolute discretion of by the BOARD, acting in accordance with Florida law.

...

## ARTICLE XVII COMPLIANCE AND DEFAULT

- 17.1 Violations. In the event of a violation (other than the non-payment of an ASSESSMENT) by a member of any of the provisions of the DECLARATION or of the ARTICLES, these BY-LAWS, or the RULES AND REGULATIONS of the ASSOCIATION, the ASSOCIATION, through its BOARD, may notify the violating member by written notice in

accordance with Section 17.8 of the DECLARATION of such violation and demand that such violation cease and be discontinued immediately and direct that any damages or injury caused thereby be immediately repaired or corrected at the sole cost and expense of the violating member.

If such violation shall continue for a period of two (2) days from date of such notice as aforesaid, or for other such unreasonable period determined by the BOARD, the ASSOCIATION, through its BOARD, shall have the right to treat such violation as an intentional, inexcusable and material breach of the DECLARATION, or the ARTICLES, these BY-LAWS, or the RULES AND REGULATIONS of the ASSOCIATION, as appropriate, and the ASSOCIATION may then, at its option, elect to undertake any of the rights provided to the ASSOCIATION in the DECLARATION, the ARTICLES and these BY-LAWS, including, without limitation, the following:

- 17.1.1 Action at Law. The ASSOCIATION may undertake an action at law against the violating member to recover for damages suffered by or on behalf of the ASSOCIATION or its members; and/or
- 17.1.2 Action in Equity; Specific Performance. The ASSOCIATION may undertake an action in equity against the violating member to enforce specific performance on the part of the violating member; and/or
- 17.1.3 Action in Equity; Injunctive Relief. The ASSOCIATION may undertake an action in equity against the violating member for such equitable relief as may be necessary under the circumstances, including injunctive relief.
- 17.1.4 ASSESSMENT of Fines. The ASSOCIATION may, subject to ~~Section 15.5~~ Section 11.03 of the DECLARATION, as amended, assess a reasonable fine and collection fee for each violation. ~~Fines may be assessed for each violation, but no more frequently than daily. The OWNER may be given reasonable written notification of the ASSESSMENT of a fine, and reasonable time to remedy the violation.~~

...

Prepared by and Return to:  
Brian S. Hess, Esq.  
Clayton & McCulloh  
1065 Maitland Center Commons Blvd.  
Maitland, FL 32751

**CERTIFICATE OF AMENDMENT TO DECLARATION OF COVENANTS AND  
RESTRICTIONS OF ISLAND VILLAS**

KNOW ALL MEN BY THESE PRESENTS:

That on this 1st day of May, 2007, the undersigned, ISLAND VILLAS HOMEOWNERS ASSOCIATION, INC. (hereinafter the "Association"), pursuant to Florida Statutes and the DECLARATION OF COVENANTS AND RESTRICTIONS OF ISLAND VILLAS recorded in Official Records Book 3237, Page 0784, *et seq.*, of the Public Records of Brevard County, Florida, as amended and supplemented (hereinafter referred to as the "Declaration"), hereby certifies that an Amendment to the Declaration, which Amendment is attached hereto and by reference made a part hereof, was duly adopted on the 17th day of February, 2007. Said Amendment was approved pursuant to Article 13, Section 13.01, of the Declaration at the annual meeting of the members of the Association.

The Association conducted the annual meeting of the members of the Association and passed the attached Amendment. Proper notice was given for the February 17, 2007 annual meeting of the members of the Association pursuant to the By-Laws of the Association (*i.e.*, the meeting where said Amendment was passed). Said Notice stated the purpose, time and place of the meeting.

At the meeting at which the Amendment was proposed and considered, the Amendment was approved by the affirmative vote of not less than two-thirds (2/3) of the owners. In accordance with the Declaration, the Covenants are modified by this duly-recorded written instrument executed by the President and Secretary upon the affirmative vote of not less than two-thirds (2/3) of the Owners.

With the exception of the above described Amendment, all other terms and conditions of the Declaration shall remain in full force and effect.

IN WITNESS HEREOF, ISLAND VILLAS HOMEOWNERS ASSOCIATION, INC., has caused this AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF ISLAND VILLAS to be executed in its name, this 1st day of May, 2007.

Signed, sealed and delivered in the presence of:

Lauren Edwards  
(Sign)  
Lauren Edwards  
(Print)  
[Signature]  
(Sign)

Holly Walters  
(Print)  
Lauren Edwards  
(Sign)  
Lauren Edwards  
(Print)  
[Signature]  
(Sign)

Holly Walters  
(Print)

ISLAND VILLAS HOMEOWNERS ASSOCIATION, INC.

By: [Signature]  
(Sign)  
Richard Ballantyne  
(Print)

President, Island Villas Homeowners Association, Inc.

Attest: Kim Nicholas  
(Sign)  
Kim Nicholas  
(Print)

Secretary, Island Villas Homeowners Association, Inc.

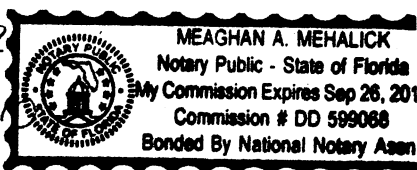
Association Address: PO Box 373057  
Indian Harbour Beach, FL 32937

STATE OF FLORIDA  
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 1st day of May, 2007, by Richard Ballantyne, as President of Island Villas Homeowners Association, Inc., a Florida corporation, on behalf of the corporation, [ ] who is personally known to me or [X] who produced FLDL B453752394500 as identification.

NOTARY PUBLIC

[Signature]  
State of Florida, At Large  
My Commission Expires: 9.26.10



STATE OF FLORIDA  
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 1st day of May, 2007, by Kimberly Nicholas, as Secretary of Island Villas Homeowners Association, Inc., a Florida corporation, on behalf of the corporation, [ ] who is personally known to me or [X] who produced FLDL N242500539190 as identification.

NOTARY PUBLIC

[Signature]  
State of Florida, At Large  
My Commission Expires: 9.26.10



AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF  
ISLAND VILLAS

Articles 2, 3, 5, 6, 7, 8, 11, 13, and 16 of the DECLARATION OF COVENANTS AND RESTRICTIONS OF ISLAND VILLAS, recorded in Official Record Book 3237, Page 0784, *et seq.*, of the Public Records of Brevard County, Florida, and as amended from time to time, is hereby further amended as follows (note: additions are indicated by underlining; deletions are indicated by ~~strike-throughs~~):

...

2. ASSOCIATION. In order to provide for the administration of the SUBJECT PROPERTY and this DECLARATION, the ASSOCIATION has been organized under the Laws of the State of Florida.

...

- 2.03 Powers of the ASSOCIATION. The ASSOCIATION shall have all of the powers indicated or incidental to those contained in its ARTICLES and BYLAWS. In addition, the ASSOCIATION shall have the power to enforce this DECLARATION and shall have all of the powers granted to it by this DECLARATION. By this DECLARATION, the SUBJECT PROPERTY is hereby submitted to the jurisdiction of the ASSOCIATION.

Specifically, the ASSOCIATION's Board of Directors (BOARD) shall have all powers granted to the BOARD by the ASSOCIATION's Governing Documents, specifically including, but not limited to, those mentioned in Article IV of the Articles of Incorporation of Island Villas Homeowners Association, Inc. Additionally and specifically, the BOARD shall have the general authority to delegate any of its responsibilities, as the BOARD sees fit, to any number of Committees which may be established by the BOARD, and as more specifically mentioned throughout the ASSOCIATION's Governing Documents.

In accordance with Article 6 of this DECLARATION, as amended from time to time, the ASSOCIATION, through its BOARD, may, but is under no obligation to, establish an "Insurance Committee" which shall be charged with the distribution of any insurance proceeds. To the extent possible, in the sole determination of the BOARD, such Insurance Committee, if established, shall be comprised of five (5) OWNERS appointed by the BOARD, with at least one OWNER representing each grouping of attached UNITS within the SUBJECT PROPERTY. Current and past members of the BOARD shall be eligible for appointment to such Insurance Committee. Such Insurance Committee, if established, shall not directly receive any proceeds, nor handle any monies, but shall instead be responsible for directing the ASSOCIATION to distribute insurance proceeds as the Insurance Committee has



determined to be in the best interest of the ASSOCIATION. Direction shall be given by a majority vote of the Insurance Committee members at any properly-noticed and held Insurance Committee meeting.

In accordance with Article 11 of this DECLARATION, as amended from time to time, should the BOARD determine to enforce the Governing Documents through the levying of fines, the ASSOCIATION, through its BOARD, shall establish an enforcement committee for the purposes of fining, in accordance with the requirements of Florida Statute §720.305(2) (2005)

...

3. COMMON AREAS, DUTIES AND OBLIGATIONS OF THE ASSOCIATION.

...

3.10 Boat Docks. It is acknowledged that DECLARANT plans, but shall not be obligated to, coordinate permitting of a limited number of boat docks along the portion of the SUBJECT PROPERTY that is contiguous to the Flamingo Waterway, and any other contiguous waterway. Dock walkways shall be limited in the CONSERVATION EASEMENT as recorded in Book 3232, Page 2642 - 2647 in the public records of Brevard County, Florida; to not more than a total of twelve (12) crossings. Said crossings shall be limited to a four (4) foot wide area starting from the docks most landward point traveling over and across the conservation easement to the dock's most waterward point. Each boat dock shall be considered LIMITED COMMON AREA and shall be designated to certain OWNERS by the DECLARANT. Each OWNER shall be responsible to obtain all federal, state and local permits and approvals before constructing a boat dock or modifying an existing boat dock. No boat dock shall be constructed or modified unless approved by the DECLARANT ASSOCIATION acting through its BOARD and in accordance with standard plans and specification set forth by the DECLARANT ASSOCIATION.

Any such UNIT OWNER may permit another resident of the SUBJECT PROPERTY to use his boat dock on such terms and conditions as the UNIT OWNER may desire, but no person who does not reside within the SUBJECT PROPERTY or who is not visiting a resident shall be permitted to use any boat dock without the prior written consent of the ASSOCIATION.

The ASSOCIATION shall have the right to permit any PERSON to use any boat docks which are not within the projection of the side walls of the UNITS on such terms and conditions as the ASSOCIATION may establish from time to time provided, however, that the residents of the SUBJECT PROPERTY shall be given the first right to use any common boat dock space.

Any UNIT OWNER having the exclusive right to any boat dock space may not run any electric or water lines to the boat dock without the prior written consent of the ASSOCIATION and, in any event, any such utility lines must comply with all

governmental requirements and must be maintained by the UNIT OWNER in good condition at all times and, if not so maintained, the ASSOCIATION shall have the right to repair or remove the utility lines at the expense of the applicable UNIT OWNER.

The maintenance and repair of all of the boat docks shall be the responsibility of only these UNIT OWNERS utilizing said boat docks provided, however, that if any UNIT OWNER's boat dock requires maintenance or repairs in excess of the other boat docks due to the UNIT OWNER's actions or failure to act, the UNIT OWNER may be assessed a share of the cost of such excess repair, such cost equal to 50% of the cost if the repairs are of an accelerated nature, and 100% of the cost if the repairs are solely due to the actions of the UNIT OWNER. And in this regard, the ASSOCIATION shall have the right to determine the source of the damage and the amount of any assessment. The ASSOCIATION reserves the right to repair, remove, or replace all or any portion of the boat docks at any time, and the ASSOCIATION, acting through its BOARD, specifically reserves the right, in the BOARD's sole determination, to assess the UNIT OWNERS for the costs of the repair, removal, or replacement of all or any portion of the boat docks at any time.

Effective March 31, 2007, no boat with a length exceeding twenty-eight (28) feet shall be located adjacent to or within any boat dock space, provided however any boat not owned by an OWNER but owned by a visitor to an OWNER may be temporarily located adjacent to or within a boat dock space for a period not to exceed forty-eight (48) hours. No boat shall encumber or restrict the access to any dock or dock space without the express permission of the owner of the dock or dock space or BOARD . Any variance from this section shall require the prior approval of the BOARD.

...

## 5. MAINTENANCE OF THE SUBJECT PROPERTY.

5.01 By the ASSOCIATION. The ASSOCIATION shall operate, maintain, repair, and replace, as a COMMON EXPENSE, the following portions of the subject property:

5.01.5 Building Exteriors and Roof. The ASSOCIATION shall perform periodic maintenance, and painting of exterior walls, roofs, and garage doors painting and maintenance, except that each UNIT OWNER shall be responsible for any repairs or replacements required to the garage door of his UNIT, other than painting or staining. Additionally, each UNIT OWNER shall be responsible for all repairs and/or replacements of exterior walls and roofs of his UNIT, to include all elements of each UNIT's roof, specifically including, but not limited to, roof trussing, roof

decking, roof coverings (i.e. roof tiles, felt underlayment), flashing, venting, and skylights.

...

6. INSURANCE. The insurance, other than title insurance, which shall be carried upon the SUBJECT PROPERTY and the UNITS shall be governed by the following provisions:

6.01 Purchase, Custody, and Payment of Policies.

6.01.1 Purchase. All insurance policies covering the SUBJECT PROPERTY, other than those policies purchased by OWNERS for individual UNITS pursuant to paragraphs 6.01.6, 6.02.1 and 6.02.6 of this Declaration, as amended, shall be purchased by the ASSOCIATION to the extent such policies are commercially reasonably available to the ASSOCIATION, in the sole determination of the BOARD, and shall be issued by an insurance company authorized to do business in Florida which has an office or agent located in the vicinity of the SUBJECT PROPERTY. The ASSOCIATION shall timely notify the OWNERS in the event that such insurance policies are not commercially reasonably available.

6.01.2 Approval by INSTITUTIONAL LENDERS. Each INSTITUTIONAL LENDER shall have the right, upon reasonable notice to the ASSOCIATION, to review and approve, which approval shall not be unreasonably withheld, the form, content, insurer, limits, and coverage of all insurance purchased by the ASSOCIATION, and to require the ASSOCIATION to purchase insurance complying with the reasonable and customary requirements of the INSTITUTIONAL LENDER. In the event of a conflict between INSTITUTIONAL LENDERS, the decision of the INSTITUTIONAL LENDER holding mortgages encumbering LOTS which secure the largest aggregate indebtedness shall control.

6.01.3 Named Insured. The named insured on all policies purchased by the ASSOCIATION shall be the ASSOCIATION, individually and as agent for all OWNERS covered by the policy, without naming them, and as agent for their mortgagees, without naming them.

6.01.4 Custody of Policies and Payment of Proceeds. All policies shall provide that payments for losses made by the insurer on account of casualty to any portion of the SUBJECT PROPERTY shall be paid to the

Insurance Trustee ASSOCIATION, and all policies and endorsements for casualty losses shall be deposited with the Insurance Trustee ASSOCIATION. However, in accordance with Article 2, Section 2.03 of this DECLARATION, as amended from time to time, the ASSOCIATION may, but is under no obligation to, establish an "Insurance Committee" which, should it be established, shall be charged with the distribution of any insurance proceeds.

- 6.01.5 Copies to OWNERS or INSTITUTIONAL LENDERS. One (1) copy of each insurance policy or a certificate evidencing same, and all endorsements thereon, shall be furnished by the ASSOCIATION to each OWNER or INSTITUTIONAL LENDER who holds a mortgage upon a LOT covered by the policy, and in writing requests the ASSOCIATION to provide it with such policies.
- 6.01.6 Personal Property and Liability; Individual Owners Policies. OWNERS may obtain insurance at their own expense and at their own discretion for their personal property, personal liability, living expenses, flood damage and for improvements made to heir the OWNER'S LOT or UNIT. To the extent that the ASSOCIATION, acting through its BOARD, has determined adequate insurance coverage is not commercially reasonably available, in accordance with this Declaration, as amended, each individual OWNER shall bear the responsibility, both financial and otherwise, to provide for all coverages determined necessary by the ASSOCIATION and in accordance this Declaration, specifically including, but not limited to, Section 6.02 and all of its subsections, as amended. In all cases, and despite anything herein contained to the contrary, OWNERS may obtain insurance at their own expense and at their own discretion for UNIT items inclusive of the wallboard inward, inclusive of the ceiling downward, and inclusive of the improved floor upward, specifically including, but not limited to carpet, tile or other floor coverings, fireplaces, kitchen cabinets and fixtures, garage cabinets or fixtures, wall coverings, window treatments, built-in cabinets or other items attached to the original drywall, suspended light fixtures or ceiling fans, air-conditioning and heating equipment.
- 6.01.7 Deductibles. Any deductible or exclusion under an insurance policy purchased by the ASSOCIATION shall be a COMMON EXPENSE, and shall not exceed ~~\$2,500.00~~ or such other sum as is approved by the members BOARD of the ASSOCIATION at any meeting of the BOARD, notice of which was provided to the members of the ASSOCIATION by posting the required advance notice of the meeting, and the substance of

the proposed deductible amount, in a conspicuous place within the SUBJECT PROPERTY.

6.02 Coverage.

6.02.1 Casualty. All UNITS and improvements upon the SUBJECT PROPERTY and all personal property of the ASSOCIATION are to be insured in an amount equal to the average current replacement cost of each UNIT in each building, excluding foundation and excavating costs and other items normally excluded from coverage, as determined annually by the ASSOCIATION. To the extent insurance is commercially reasonably available to the ASSOCIATION, as determined by the ASSOCIATION'S BOARD, the ASSOCIATION will be responsible for providing this coverage, and the costs of providing for said coverage shall be included as a COMMON EXPENSE of the ASSOCIATION. If such insurance is not commercially reasonably available to the Association, the responsibility for providing this coverage and the expenses related to providing this necessary coverage shall be the responsibility of the OWNERS of each UNIT or LOT. Provided that the ASSOCIATION determines to insure the SUBJECT PROPERTY and the ASSOCIATION, prior to obtaining any casualty insurance or renewal thereof, the ASSOCIATION, ~~shall acting through its BOARD, may obtain an appraisal from a fire insurance company or otherwise of any agency or entity to assist in determining the~~ average replacement cost of each unit UNIT in each building and improvements upon the SUBJECT PROPERTY and all personal property of the ASSOCIATION, without deduction for depreciation, for the purpose of determining the amount of casualty insurance to be obtained pursuant to this paragraph. Such coverage, shall afford protection against:

6.02.1.1 Loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and

6.02.1.2 Such other risks as from time to time shall be customarily insured against with respect to buildings and improvements similar in construction, location, and use, including, but not limited to, vandalism and malicious mischief, and all other risks normally covered by a standard "All Risk" endorsement, where available.

6.02.1.3 The hazard insurance policy purchased by the ASSOCIATION, shall cover, among other things, all of the structural elements of the UNITS including, but not limited to, walls, doors, exterior stairways, kitchen cabinets and

~~fixtures, built-in kitchen appliances, electrical fixtures, and bathroom cabinets and fixtures, all as originally supplied by DECLARANT or having a value not in excess of that originally supplied by DECLARANT.~~ windows and items from the exterior of the wallboard, above the plane of the unfinished ceiling, and including the unimproved floor. The ASSOCIATION's hazard insurance policy may not include UNIT items inclusive of the wallboard inward, inclusive of the ceiling downward, and inclusive of the improved floor upward, specifically including, but not limited to, but not limited to carpet, tile or other floor coverings, fireplaces, kitchen cabinets and fixtures, garage cabinets or fixtures, wall coverings, window treatments, built-in cabinets or other items attached to the original drywall, suspended light fixtures or ceiling fans, air-conditioning and heating equipment.

The hazard insurance policy shall not include any improvements made in any UNIT by an OWNER in addition to or having a value in excess of that originally supplied by DECLARANT, or any wall coverings, furniture, furnishings, or other personal property installed or brought into a UNIT from time to time by the OWNER or residents of a UNIT, or their guests or invitee.

6.02.2 Liability. To the extent possible or desirable to the ASSOCIATION, as determined by the ASSOCIATION'S BOARD, the ASSOCIATION shall provide for comprehensive general public liability insurance insuring the ASSOCIATION against loss or damage resulting from accidents or occurrences on or about or in connection with the SUBJECT PROPERTY, or any work, matters, or things related to the SUBJECT PROPERTY or this DECLARATION and its exhibits, with such coverage as shall be required by the ASSOCIATION, but with a combined single limit liability of not less than One Million Dollars (\$1,000,000.00) for bodily injury, death, or property damage, arising out of a single occurrence, and with cross liability endorsement to cover liabilities of the OWNERS as a group to an OWNER.

6.02.3 To the extent possible or desirable to the ASSOCIATION, as determined by the ASSOCIATION'S BOARD, the ASSOCIATION shall provide for Workmen's Compensation coverage as shall be required to meet the requirements of the law.

6.02.4 Fidelity Bonds. If required by an INSTITUTIONAL LENDER, or if determined by the BOARD as desirable and in the best interests of the ASSOCIATION to provide, the ASSOCIATION shall obtain blanket fidelity bonds for all officers, directors, trustees, and employees of the ASSOCIATION and all other persons handling or responsible for funds of or administered by the ASSOCIATION. The total amount of fidelity bond coverage, if required, shall in no event be less than a sum equal to three (3) months aggregate ASSESSMENTS on all LOTS plus reserve funds held by the ASSOCIATION, if any.

6.02.5 Such Other Insurance. The ASSOCIATION may provide coverage as the ASSOCIATION acting through its BOARD shall determine from time to time to be desirable or as may reasonably be required by an INSTITUTIONAL LENDER pursuant to paragraph 6.01.2, and as is customarily obtained with respect to UNITS and improvements similar to construction, location, and use to those contained within the SUBJECT PROPERTY, such as, where applicable, contractual and all written contract insurance, employer's liability insurance, and comprehensive automobile liability insurance.

When appropriate and obtainable, as same shall be determined by the sole authority of the BOARD, each of the foregoing policies shall waive the insurer's right to:

- (i) Subrogation against the ASSOCIATION and against the OWNERS individually and as a group,
- (ii) Any pro rata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk, and
- (iii) Avoid liability for a loss that is caused by an act of one or more directors of the ASSOCIATION or by one or more OWNERS; and shall provide that such policies may not be canceled or substantially modified (except for increases in coverage for limits of liability) without at least ten (10) days prior written notice to the ASSOCIATION and to the holder of the first mortgage encumbering any LOT which is listed as a scheduled holder of a first mortgage in the insurance policy.

In all instances, it is the BOARD's sole determination as to whether or not to provide for policies including the waiver of such rights.

- 6.02.6 Flood Insurance. To the extent available, the ASSOCIATION, acting through its BOARD, shall purchase the required amount of flood insurance on all UNITS and LOTS and the subject property any ASSOCIATION common property as required by federal, state, or local regulations, mandates, or laws. To the extent that flood insurance is not commercially reasonably available to the ASSOCIATION, in the BOARD's sole determination, the OWNER of any LOT or UNIT shall be required to provide for any required flood insurance. The ASSOCIATION shall timely notify the OWNERS that flood insurance is not commercially reasonably available to the ASSOCIATION.
- 6.03 Premiums. Premiums for insurance policies purchased by the ASSOCIATION shall be paid by the ASSOCIATION as a COMMON EXPENSE, except that any increase in any insurance premium occasioned by misuse, occupancy, or abandonment of a UNIT by a particular OWNER, or by a resident of any UNIT (specifically including, but not limited to, any tenants of a UNIT), or by a member of their families or their guests or invitee, shall be assessed against and paid by that OWNER.
- 6.04 Insurance Trustee Proceeds. All casualty insurance policies purchased by the ASSOCIATION shall provide that all proceeds covering casualty losses shall be paid to any national bank or trust company in the vicinity of the SUBJECT PROPERTY with trust powers as may be designated by the ASSOCIATION, as Trustee, which Trustee is herein referred to as the "Insurance Trustee." The Insurance Trustee shall not be liable for payment of premiums or for the renewal of sufficiency of the policies or for the failure to collect any insurance proceeds. However, in the event that the BOARD has established an Insurance Committee, the Association shall receive all proceeds and then promptly forward same to the Insurance Committee. The duty of the Insurance Trustee Committee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated herein and for the benefit of the OWNERS and their respective mortgagees INSTITUTIONAL LENDERS in the following shares, as set forth in Section 6.04.2 which shares need not be set forth in the records of the Insurance Trustee Committee.

Notwithstanding the foregoing, unless the BOARD so determines or unless any INSTITUTIONAL LENDER otherwise requires by written notice to the ASSOCIATION, no Insurance Trustee Committee will be required and all references in this DECLARATION to an Insurance Trustee Committee shall refer to the ASSOCIATION acting through its BOARD where the context requires.



- 6.04.1 COMMON AREAS. Proceeds on account of damage to COMMON AREAS shall be held in as many undivided shares as there are LOTS, the share of each OWNER being equal.
- 6.04.2 UNITS. Proceeds on account of damage to UNITS shall be held in the following undivided shares:
- 6.04.2.1 When the UNITS are to be repaired and restored, for the OWNERS of damaged UNITS in proportion to the cost of repairing the damage suffered by each OWNER.
- 6.04.2.2 When the UNITS are not to be repaired and restored as elsewhere provided, for the OWNERS of all damaged UNITS, each OWNER's share being equal to the "under roof" square footage of each OWNER's UNIT not to be repaired and restored, as proportional to the total "under roof" square footage of all UNITS within the SUBJECT PROPERTY not to be repaired and restored.
- 6.04.2.3 INSTITUTIONAL LENDER. In the event a mortgagee endorsement has been issued as to a UNIT, the share of the OWNER shall be held ~~in trust~~ for the INSTITUTIONAL LENDER and the OWNER as their interest may appear. However, no INSTITUTIONAL LENDER shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no INSTITUTIONAL LENDER shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions thereof made to the OWNER and INSTITUTIONAL LENDER pursuant to the provisions of this DECLARATION.
- 6.05 Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee Committee, if any has been established, shall be distributed to, or for the benefit of, the beneficial owners in the following manner:
- 6.05.1 Expense of the Trust Insurance Committee. All expenses of the Insurance Trustee Committee, if any, shall be first paid or provisions made therefor.
- 6.05.2 Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds

remaining after defraying such cost shall be distributed to the ~~beneficial owners, remittances to~~ OWNERS of the damaged UNITS and their ~~mortgagees~~ INSTITUTIONAL LENDER(S) being payable jointly to them. This is covenant for the benefit of any ~~mortgagee~~ INSTITUTIONAL LENDER of a LOT and may be enforced by such ~~mortgagee~~ INSTITUTIONAL LENDER.

6.05.3 Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damaged UNITS for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the OWNERS of the damaged UNITS, remittances to OWNERS and their ~~mortgagees~~ INSTITUTIONAL LENDER(S) being payable jointly to them. This is a covenant for the benefit of any ~~mortgagee~~ INSTITUTIONAL LENDER of a LOT and may be enforced by such ~~mortgagee~~ INSTITUTIONAL LENDER.

6.05.4 Certificate. In making distribution to OWNERS and their ~~mortgagees~~ INSTITUTIONAL LENDER(S), the Insurance ~~Trustee~~ Committee may rely upon a certificate of the ASSOCIATION executed by the President and Secretary as to the names of the OWNERS and ~~mortgagees~~ INSTITUTIONAL LENDER(S) together with their respective shares of the distribution.

6.05.5 Limitation on Use of Proceeds. In no event may any hazard insurance proceeds for losses to any portion of the SUBJECT PROPERTY be used for other than expenses of the Insurance ~~Trustee~~ Committee or for the repair, replacement, or reconstruction of any damage, without the approval of at least two-thirds (2/3) of the OWNERS, and the approval of OWNERS whose UNITS are to be repaired with such proceeds.

6.06 ASSOCIATION as Agent. The ASSOCIATION is hereby irrevocably appointed agent for each OWNER and for the holder of a mortgage or other lien upon a LOT and for each owner of any other interest in the SUBJECT PROPERTY to adjust all claims arising under insurance policies purchased by the ASSOCIATION and to execute and deliver releases upon the payment of claims.

6.07 Notice of Possible Inadequate Insurance Coverage. In any legal action in which the ASSOCIATION may be exposed to liability in excess of insurance coverage protecting it and the OWNERS, the ASSOCIATION shall give notice of any excess exposure within a reasonable time to all OWNERS who may be exposed to the liability and they shall have the right to intervene and defend.

6.08 Inspection of Insurance Policies. A copy of each insurance policy purchased by the ASSOCIATION shall be made available for inspection by any OWNER or INSTITUTIONAL LENDER at reasonable times.

7. RECONSTRUCTION OR REPAIR AFTER CASUALTY.

7.01 Determination to Reconstruct or Repair. If any part of the SUBJECT PROPERTY is damaged or destroyed by casualty, whether or not damage will be repaired shall be determined in the following manner:

7.01.1 COMMON AREAS. If the damaged improvement is contained within a COMMON AREA, the damaged property shall be reconstructed or repaired, unless two-thirds (2/3) of the OWNERS vote to the contrary.

7.01.2 UNITS. In the event of damage to or destruction of any UNITS as a result of fire or other casualty, except as hereinafter provided, the ASSOCIATION, acting through its BOARD, shall arrange for the prompt repair and restoration of the UNITS(S) ~~(including any damaged bathroom and kitchen fixtures equivalent in value to that initially installed by the DECLARANT, but not including improvements having a value in excess of that originally installed by DECLARATION, or furniture, furnishings, or other personal property supplied by an OWNER or tenant of an OWNER)~~ to the extent said UNIT(S) have been insured by the ASSOCIATION and the Insurance Trustee Committee, if such has been established by the ASSOCIATION, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

Notwithstanding the foregoing, if all of the UNITS within any BUILDING are very substantially damaged or destroyed, then within sixty (60) days after such damage or destruction, a special meeting of the OWNERS shall be called to determine whether the damage or destruction will be repaired and ~~destroyed~~ restored. The damage or destruction shall be repaired and restored unless two-thirds (2/3) of the OWNERS, including all of the OWNERS of the damaged or destroyed UNITS, vote to the contrary. In the event the damaged UNITS are not to be repaired or restored, the fee title to each LOT containing a damaged UNIT which is not to be repaired or restored shall be vested in the ASSOCIATION.

By accepting a deed conveying a LOT, each OWNER covenants for himself, his heirs, personal representatives, successors, and assigns to execute any and all instruments which may be reasonably required by the ASSOCIATION to carry out the terms of this paragraph, including,

without limitation, a deed conveying all of the OWNER's rights, title, and interest in and to his LOT to the ASSOCIATION.

In such event, the ASSOCIATION shall diligently pursue selling all of the LOTS which contain UNITS which are not to be repaired or restored, and the net proceeds from such sale, together with the net proceeds of insurance resulting from damage or destruction shall be divided among all the OWNERS of such damaged UNITS, each OWNER to receive an equal a proportional amount of such net proceeds, with each OWNER's share being equal to the "under roof" square footage of each OWNER's UNIT not to be repaired and restored, as proportional to the total "under roof" square footage of all UNITS within the SUBJECT PROPERTY not to be repaired and restored; provided, however that no payment shall be made to an OWNER until there has first been paid off out of his share of such funds all liens on his LOT in the order of priority of such liens. The Insurance Trustee Committee, if established, may rely upon a certificate of the ASSOCIATION made by its President and Secretary to determine whether or not any damaged UNITS are to be reconstructed or repaired.

- 7.02 Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original improvements or, if not, then according to plans and specifications approved by a majority of the OWNERS and, if the damaged property is one or more UNITS, by the OWNERS of all such UNITS (and their respective INSTITUTIONAL LENDERS), the plans for which are to be altered, which approval shall not be unreasonably withheld. Any reconstruction or repair must be in accordance with the ordinances of the controlling governmental authority, and must be approved by the controlling governmental authority or its appropriate review committee where required by such ordinances. Any reconstruction or repair must be in conformance with the requirements of any controlling governmental authority, and where required, appropriate permits for same shall be obtained.
- 7.03 Responsibility. If the damage is only to those parts of a UNIT for which the responsibility of maintenance and repair is that of the OWNER, the OWNER shall be responsible for reconstruction and repair after casualty. In all other instances, the responsibility of reconstruction and repair after casualty shall be that of the ASSOCIATION.
- 7.04 Estimates of Cost. Immediately As soon as possible after a determination is made to rebuild or repair damage to property for which the ASSOCIATION has the responsibility of reconstruction and repair (but in any case within a commercially-reasonable period), the ASSOCIATION acting through its BOARD shall obtain reliable and detailed estimates of the cost to rebuild or repair from one

or more reliable licensed contractors and shall submit copies of all acceptable estimates to the Insurance ~~Trustee~~ Committee, provided it has been established by the ASSOCIATION.

7.05 ASSESSMENTS. If the proceeds of insurance are not sufficient to defray the estimated cost of reconstruction and repair by the ASSOCIATION or if at any time during or after the reconstruction and repair the funds for the payment of the cost thereof are insufficient, ASSESSMENTS shall be made against the OWNERS in sufficient amounts to provide funds to pay such costs. Such ASSESSMENTS for damage to the UNITS shall only be made against the OWNERS of the damaged UNITS in proportion to the cost of reconstruction and repair of each OWNER's respective UNIT. Such ASSESSMENTS for damage to COMMON AREAS shall be made against all of the OWNERS equally.

7.06 Deductible Provision. The OWNERS shall be responsible for the payment of any deductible under the ASSOCIATION's casualty insurance policy, in the same manner as the OWNERS are responsible for the payment of any excess costs of reconstruction and repair as set forth in the preceding paragraph.

7.07 Construction Funds. The funds for payment for costs of reconstruction and repair after casualty, which shall consist or proceeds of insurance held by the Insurance ~~Trustee~~ Committee and funds collected by the ASSOCIATION from ASSESSMENTS against OWNERS, shall be disbursed in payment of such costs in the following manner:

7.07.1 ASSOCIATION. ~~If the total~~ All ASSESSMENTS made by the ASSOCIATION in order to provide funds for payment of costs of reconstruction and repair which is the responsibility of the ASSOCIATION ~~is more than Twenty-five Thousand Dollars (\$25,000.00), then the sums paid upon such ASSESSMENT shall be deposited by with~~ the ASSOCIATION ~~with the Insurance Trustee. In all other cases, and the~~ ASSOCIATION shall hold the sums paid upon such ASSESSMENTS and disburse the same in payment of the costs of reconstruction and repair.

7.07.2 Insurance Trustee Proceeds. The proceeds of insurance collected on account of a casualty and the sums deposited with the ~~Insurance Trustee by the~~ ASSOCIATION from collections of ASSESSMENTS against OWNERS on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:

7.07.2.1 ASSOCIATION Lesser Damage. If the amount of the estimated costs of reconstruction and repair which is the

responsibility of the ASSOCIATION is less than Twenty-five Thousand Dollars (\$25,000.00), then the construction funds shall be disbursed in payment of such costs upon the order of the ASSOCIATION, provided, however, that upon request to the Insurance ~~Trustee~~ Committee by an INSTITUTIONAL LENDER which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damage.

7.07.2.2

ASSOCIATION Major Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the ASSOCIATION is more than Twenty-five Thousand Dollars (\$25,000.00), then the construction funds shall be disbursed in payment of such costs in the manner required by the ASSOCIATION, acting through its BOARD, and, if the BOARD so desires or deems necessary in its sole discretion, may engage and consult with an architect, general contractor, or other building-industry related professional qualified to practice in the State of Florida and as may be employed by the ASSOCIATION to supervise the work.

7.07.2.3

OWNER. If there is a balance of insurance proceeds after payment of costs of reconstruction and repair that is the responsibility of the ASSOCIATION, such balance shall next be distributed to OWNERS of damaged UNITS. The distribution shall be in the shares that the estimated costs of reconstruction and repair in each damaged UNIT bears to the total of these costs in all damaged UNITS; provided, however, that no OWNER shall be paid an amount in excess of the estimated costs of reconstruction and repair for his UNIT. If there is a mortgage upon a LOT, the distribution shall be paid to the OWNER and the ~~mortgagee~~ INSTITUTIONAL LENDER jointly and they may use the proceeds as they may determine.

7.07.2.4

Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established,

such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated; except, however, that the part of a distribution to a beneficial owners which is not in excess of ASSESSMENTS paid by such OWNER in the construction fund shall not be made payable to any mortgagee INSTITUTIONAL LENDER.

7.07.2.5

Certificate. Notwithstanding the provisions herein, the Insurance ~~Trustee~~ Committee, if any has been established, shall not be required to determine ~~whether or not sums paid by OWNERS upon ASSESSMENTS shall be deposited by the ASSOCIATION with the Insurance Trustee, nor to determine whether the disbursements from the construction funds are to be paid upon the order of the ASSOCIATION or upon approval agreement of an architect or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine the payee nor the amount to be paid, nor to determine whether surplus funds to be distributed are less than the ASSESSMENTS paid by OWNERS.~~ Instead the Insurance ~~Trustee~~ Committee may rely upon a certificate of the ASSOCIATION executed by its President and Secretary as to any or all such matters and stating that the sums to be paid are due and properly payable, and stating the name of the payee and the amount to be paid; provided, however, that when a mortgagee INSTITUTIONAL LENDER is herein required to be named as payee, the Insurance ~~Trustee~~ Committee, if established, shall also name the mortgagee INSTITUTIONAL LENDER as payee of any distribution of insurance proceeds to an OWNER and further provided that when the ASSOCIATION BOARD, if the BOARD so desires or deems necessary in its sole discretion, or a mortgagee INSTITUTIONAL LENDER which is the beneficiary of any insurance policy, the proceeds of which are included in the construction fund, so requires, the approval agreement of an architect, general contractor, or other building-industry related professional named by the ASSOCIATION shall first be obtained by the ASSOCIATION for disbursements in payment of costs of reconstruction and repair.

...8. USE RESTRICTIONS.

...

8.02 Occupancy. No UNIT shall be permanently occupied by more than two (2) persons for each bedroom in the UNIT, ~~and no more than one (1) child under the age of 18 is permitted to reside in a UNIT on a permanent basis for each bedroom in the UNIT.~~ In addition, temporary guests are permitted so long as they do not create an unreasonable source of noise or annoyance to the other residents of the SUBJECT PROPERTY.

...

8.11 ~~Clotheslines and Outside Clothes Drying. No clothesline or clothespole shall be erected, and no outside clothes-drying is permitted, except where such activity is advised or mandated by governmental authorities for energy conservation purposes, in which event the ASSOCIATION shall have the right to approve the portions of any LOT used for outdoor clothes-drying purposes and the types of devices to be employed in this regard, which approval must be in writing. This Section intentionally left blank.~~

...

8.13 Outside Antennas. ~~No~~ Only outside signal receiving or sending antennas, dishes (having a diameter of one-meter or less), or devices, all of which having been previously approved by the Federal Communications Commission, are permitted to be installed on the exterior of a UNIT. The foregoing shall not prohibit any antenna or signal receiving dish owned by the ASSOCIATION which services the entire SUBJECT PROPERTY.

...

8.15 Signs. ~~No signs, other than a sign indicating the UNIT OWNER's use of security services, placed in accordance with Section 720.304, Florida Statutes (2005),~~ shall be placed upon any LOT, and no signs shall be placed in or upon any UNIT which are visible from the exterior of the UNIT, without the prior written consent of the ASSOCIATION.

...

11. DEFAULT.

...

11.03 ~~Fines. The amount of any fine shall be determined by the BOARD and shall not exceed one-third (1/3) of one month's ASSESSMENT for COMMON EXPENSES for the first offense, two-thirds (2/3) of one month's ASSESSMENT for COMMON EXPENSES for a second similar offense, and one month's~~



~~ASSESSMENT for COMMON EXPENSES for a third or subsequent similar offense. Any fine shall be imposed by written notice to the OWNER or tenant signed by an officer of the ASSOCIATION and shall state the amount of the fine, the violation for which the fine is imposed, and shall specifically state that the OWNER or tenant has the right to contest the fine by delivering written notice to the ASSOCIATION within ten (10) days after receipt of the notice imposing the fine.~~

---

~~If the OWNER or tenant timely and properly objects to the fine, the BOARD shall conduct a hearing within thirty (30) days after receipt of the OWNER's or tenant's objection and shall give the OWNER or tenant not less than ten (10) days written notice of the hearing date. At the hearing, the BOARD shall conduct a reasonable inquiry to determine whether the alleged violation in fact occurred and that the fine imposed is appropriate. The OWNER or tenant shall have the right to attend the hearing and to produce evidence on his behalf. At the hearing, the BOARD shall ratify, reduce, or eliminate the fine, and shall give the OWNER or tenant written notice of its decision. Any fine shall be due and payable within ten (10) days after written notice of the imposition of the fine or, if a hearing is timely requested, within ten (10) days after written notice of the BOARD's decision at the hearing.~~

---

~~Any fine levied against an OWNER shall be deemed an ASSESSMENT and, if not paid when due, all of the provisions of this DECLARATION relating to the late payment of ASSESSMENTS shall be applicable. If any fine is levied against a tenant and is not paid within ten (10) days after same is due, the ASSOCIATION shall have the right to evict the tenant pursuant to Paragraph 12.06. The ASSOCIATION may assess a reasonable fine and collection fee for each violation. In addition to all other remedies, and to the maximum extent lawful, in the sole discretion of an enforcement committee to be established by the BOARD in accordance with the requirements of Florida Statute §720.305(2) (2005), a fine or fines may be imposed upon an OWNER, tenant, guest or invitee for failure to comply with any covenant, restriction, rule or regulation set forth herein or in any of the ASSOCIATION's governing documents, provided the following procedures are adhered to:~~

- ~~(A) Notice: The BOARD of the ASSOCIATION or the enforcement committee shall notify the OWNER, tenant, guest and/or invitee of the alleged infraction or infractions and provide such individual or entity at least fourteen (14) days notice of the intent to fine. Included in the notice shall be the date, place and time of a hearing before the enforcement committee at which time the party sought to be fined may present evidence and reasons why a fine(s) should not be imposed.~~

- (B) Hearing: The alleged non-compliance shall be presented to the enforcement committee at a hearing at which time the party sought to be fined for the alleged violation shall have an opportunity to present defenses and reasons why a fine(s) should not be imposed. A written decision of the enforcement committee shall be submitted to the party responsible for the alleged violation not later than twenty-one (21) days after the meeting of the enforcement committee. The party sought to be fined shall have a right to be represented by counsel and to cross-examine witnesses.
- (C) Fines and/or Revocation of Certain Privileges: The enforcement committee may impose a reasonable fine not to exceed \$100.00 per violation, or, in the case of a continuing violation, may impose a reasonable fine on the basis of each day of said continuing violation not to exceed \$1,000.00 in the aggregate, against any Owner, tenant, guest and/or invitee.
- (D) Payment of Fines: Fines shall be paid not later than five (5) days after notice of the imposition or assessment of the penalties.
- (E) Collection of Fines: To the extent allowed by law, fines shall be a charge and continuing lien against the subject lot and shall be treated as an assessment, including the right of foreclosure, all as subject to the provisions for the collection of assessments set forth in the ASSOCIATION's governing documents.
- (F) Application of Proceeds: All monies received from fines shall be allocated as directed by the BOARD.
- (G) Non-exclusive Remedy: These fines shall not be construed to be the exclusive remedy of the ASSOCIATION, and shall exist in addition to all other rights and remedies to which the ASSOCIATION may be otherwise legally entitled.

...

### 13. AMENDMENT.

13.01 This DECLARATION may be amended upon the approval of not less than ~~two-thirds (2/3)~~ a simple majority (i.e.: fifty-percent of all OWNERS, rounded up to the nearest whole OWNER, such that the number of votes in favor outnumbers the number of votes against or abstaining) of the OWNERS. In addition, so long as DECLARANT owns any portion of the SUBJECT PROPERTY, this DECLARATION may be amended from time to time by DECLARANT and without the consent of the ASSOCIATION or any OWNER, and no amendment may be made by the OWNERS without the written joinder of DECLARANT. Such right of DECLARANT to amend this DECLARATION shall specifically include, but shall not be limited to:

(i) amendments adding any contiguous property which will be developed in a similar manner as the SUBJECT PROPERTY, or deleting any property from the SUBJECT PROPERTY which will be developed differently than the SUBJECT PROPERTY (provided that any such amendment shall require the joinder of the owners of such property or any portion thereof if different than DECLARANT, and further provided that DECLARANT shall not have the obligation to add any property to or delete any property from the SUBJECT PROPERTY), and

(ii) amendments required by any INSTITUTIONAL LENDER or governmental authority in order to comply with the requirements of same. In order to be effective, any amendment to this DECLARATION must first be recorded in the public records of the county in which the SUBJECT PROPERTY is located and, in the case of an amendment made by the OWNERS, such amendment shall contain a certification by the President and Secretary of the ASSOCIATION that the amendment was duly adopted.

...

16. MISCELLANEOUS.

...

16.07 Inapplicability of Condominium Act. It is acknowledged that the ASSOCIATION is not intended to be a condominium association and is not intended and shall not be governed by the provisions of Florida Statutes, Chapter 718. The Association is a homeowners association governed by Florida Statutes, Chapter 617, and Chapter 720 as amended.

...

*Final Amendment  
Delivered to Homeowner.*

**Jim Christie**

---

**From:** <Euclid108@aol.com>  
**To:** <bshess@clayton-mcculloh.com>; <jandnchristie@earthlink.net>; <Dawnkim2@aol.com>; <JYoungkin@aol.com>  
**Cc:** <bobisie@msn.com>  
**Sent:** Friday, June 06, 2008 12:22 PM  
**Attach:** IV DeclarationAmned6.6.08.pdf  
**Subject:** Declaration Amendment

Hi Brian Thanxs for turning this around. Looks great. Dick Ballantyne Kim As revise this is ready to be included in the Special Meeting mailing

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AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF  
ISLAND VILLAS

Article 6, Sections 6.01 and 6.02 of the DECLARATION OF COVENANTS AND RESTRICTIONS OF ISLAND VILLAS, recorded in Official Record Book 3237, Page 0784, *et seq.*, of the Public Records of Brevard County, Florida, and as amended from time to time, is hereby further amended as follows (note: additions are indicated by underlining; deletions are indicated by ~~strike-throughs~~):

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6. INSURANCE. The insurance, other than title insurance, which shall be carried upon the SUBJECT PROPERTY and the UNITS shall be governed by the following provisions:

6.01 Purchase, Custody, and Payment of Policies.

6.01.1 Purchase. All insurance policies covering the SUBJECT PROPERTY, other than those policies purchased by OWNERS for individual UNITS pursuant to paragraphs 6.01.6, 6.02.1 and 6.02.6 of this Declaration, as amended, shall be purchased by the ASSOCIATION to the extent such policies are commercially reasonably available to the ASSOCIATION, in the sole determination of the BOARD, and shall be issued by an insurance company authorized to do business in Florida. However, as described later in this Article 6, no policy covering the SUBJECT PROPERTY purchased by the ASSOCIATION shall provide property insurance coverage of less than eighty percent (80%) of current replacement cost of any average UNIT. The ASSOCIATION shall timely notify the OWNERS in the event that such insurance policies are not commercially reasonably available.

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6.02 Coverage.

6.02.1 Casualty. All UNITS and improvements upon the SUBJECT PROPERTY and all personal property of the ASSOCIATION are to be insured in an amount equal to the average current replacement cost of each UNIT in each building, excluding foundation and excavating costs and other items normally excluded from coverage, as determined annually by the ASSOCIATION. To the extent insurance is commercially reasonably available to the ASSOCIATION, as determined by the ASSOCIATION'S BOARD, the ASSOCIATION will be responsible for providing this coverage, and the costs of providing for said coverage shall be included as a COMMON EXPENSE of the ASSOCIATION. However, no policy covering

the SUBJECT PROPERTY purchased by the ASSOCIATION shall provide casualty coverage of less than eighty percent (80%) of current replacement cost of any average UNIT. If such insurance is not commercially reasonably available to the Association, the responsibility for providing this coverage and the expenses related to providing this necessary coverage shall be the responsibility of the OWNERS of each UNIT or LOT. Provided that the ASSOCIATION determines to insure the SUBJECT PROPERTY and the ASSOCIATION, prior to obtaining any casualty insurance or renewal thereof, the ASSOCIATION, acting through its BOARD, may obtain an appraisal from any agency or entity to assist in determining the average replacement cost of each UNIT in each building and improvements upon the SUBJECT PROPERTY and all personal property of the ASSOCIATION, without deduction for depreciation, for the purpose of determining the amount of casualty insurance to be obtained pursuant to this paragraph. Such coverage, shall afford protection against:

- 6.02.1.1 Loss or damage by fire, wind, and other hazards covered by a standard extended coverage endorsement; and
- 6.02.1.2 Such other risks as from time to time shall be customarily insured against with respect to buildings and improvements similar in construction, location, and use, including, but not limited to, vandalism and malicious mischief, and all other risks normally covered by a standard "All Risk" endorsement, where available.
- 6.02.1.3 The hazard insurance policy purchased by the ASSOCIATION, shall cover, among other things, all of the structural elements of the UNITS including, but not limited to, walls, doors, exterior stairways, windows and items from the exterior of the wallboard, above the plane of the unfinished ceiling, and including the unimproved floor. The ASSOCIATION's hazard insurance policy may not include UNIT items inclusive of the wallboard inward, inclusive of the ceiling downward, and inclusive of the improved floor upward, specifically including, but not limited to, but not limited to carpet, tile or other floor coverings, fireplaces, kitchen cabinets and fixtures, garage cabinets or fixtures, wall coverings, window treatments, built-in cabinets or other items attached to the original drywall, suspended light fixtures or ceiling fans, air-conditioning and heating equipment. The hazard insurance policy shall not include any wall coverings, furniture, furnishings, or other personal property installed or

brought into a UNIT from time to time by the OWNER or residents of a UNIT, or their guests or invitee.

6.02.6 Flood Insurance. To the extent available, the ASSOCIATION, acting through its BOARD, shall purchase the required amount of flood insurance on all UNITS and LOTS and any ASSOCIATION common property as required by federal, state, or local regulations, mandates, or laws. However, no policy covering the SUBJECT PROPERTY purchased by the ASSOCIATION shall provide flood coverage of less than eighty percent (80%) of current replacement cost, or maximum permitted by Federal Emergency Management Agency (FEMA) standards, of any average UNIT. To the extent that flood insurance is not commercially reasonably available to the ASSOCIATION, in the BOARD's sole determination, the OWNER of any LOT or UNIT shall be required to provide for any required flood insurance. The ASSOCIATION shall timely notify the OWNERS that flood insurance is not commercially reasonably available to the ASSOCIATION.

6.02.7 Insurance Policies - Single Agent. Notwithstanding anything to the contrary contained in this Article 6, or anywhere else in this DECLARATION, as amended, the BOARD may designate a single insurance agent or agency to provide, manage and oversee any individual OWNERS' or the ASSOCIATION's property insurance policies existing or to exist on each LOT or UNIT. The selection of such agent or agency shall take place through a competitive selection process organized and functioning as determined by the ASSOCIATION'S BOARD. If the ASSOCIATION'S BOARD designates, in accordance with this provision, a single insurance agent or agency to provide, manage and oversee any individual OWNERS' or the ASSOCIATION's property insurance policies existing or to exist on each LOT or UNIT, all OWNERS shall be required to utilize said agent's or agency's services in order to obtain and service property insurance policies existing or to exist on each LOT or UNIT. Additionally, any such policies shall include the ASSOCIATION as an additional insured or loss payee.