

DOCUMENT BOOKLET
FOR
BAYBERRY ESTATES, UNITS ONE AND TWO

EXHIBIT A
INFORMATION SHEET

BAYBERRY ESTATES HOMEOWNER'S ASSOCIATION, INC.

INFORMATION BROCHURE (A)

The Bayberry subdivision will consist of a total of 136 dwelling units, which may be developed in two units. The structure of the Homeowner's Association is outlined below:

1. Organizational Structure:

The affairs of the Association shall be managed by a Board of ~~three (3)~~ ^{FIVE (5)} Directors. The officers of the Association shall be a President and Vice President (who shall at all times be members of the Board of Directors), a Secretary and a Treasurer.

2. Membership and Voting Rights of Homeowner's and Developer:

Class A Members: Class A Members shall be all owners, with the exception of the Declarant, and shall be entitled to one vote for each lot owned.

Class B Members: ~~The Class B Member shall be the Declarant and shall be entitled to three (3) votes for each lot owned.~~ N/A

3. Annexation and Amendment:

a. Additional residential property and common area may be annexed to the properties with the consent of 2/3 of each class of member.

b. The covenants and restrictions of the Declaration shall run with and bind the land for a term of twenty (20) years from the date the Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. The Declaration may be amended during the first twenty (20) year period by an instrument signed by the Owners of ninety percent (90%) or more of the Lots, and thereafter by an instrument signed by the Owners of seventy five percent (75%) or more of the Lots. The Developer shall have the right during the ~~first two (2) years from the date the Declaration is recorded to amend the Declaration to clarify any ambiguities or conflicts, subject however, to approval by the Veterans Administration.~~ N/A

4. Assessments:

Until January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment shall be \$240.00 per lot. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a maximum rate of the highest rate allowable by law. The Association may bring an action at law against the Owner or foreclose the lien against the property in the event of non-payment.

5. Method of Changing Annual Assessment:

After January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment may be increased five percent (5%) per year without a vote of the membership and above five percent (5%) by a two-third (2/3) vote of each class of member.

6. Insurance:

The Association will maintain public liability insurance on all common property. Insurance will be maintained on all Association owned structures in the amount of their replacement cost. The insurance does not

cover personal liability or insurance on individual units. This coverage will be at the homebuyer's expense.

7. Description of Common Property:

Tracts A, B, C, D, E, F and G, Bayberry Estates, Unit One and Tract D, Bayberry Estates, Unit Two are designated as common property. This property includes retention areas, green areas and swimming pool, bathhouse and tennis court.

8. Services Provided by the Association:

The Association shall provide maintenance of the common areas and architectural control of the subdivision.

9. Architectural Control:

No exterior alterations or additions may be made until plans are submitted to the Architectural Review Committee for approval.

EXHIBIT B

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

REC. FEE \$ 53.00 REC'D PAYMENT AS
DOC. ST. \$ _____ INDICATED FOR CLASS
INT. TAX \$ _____ "C" INTANGIBLE & DOC
SER. CHG. \$ _____ STAMP TAXES SIGNED
REFUND \$ _____
Clerk Circuit Court, Brevard Co., Florida *Redmond*

DECLARATION

OF COVENANTS, CONDITIONS AND RESTRICTIONS
(B)

THIS DECLARATION, made on the date hereinafter set forth by MKT Housing Company Inc., hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of Melbourne, County of Brevard, State of Florida, which is more particularly described as:

Lots 1-26 inclusive, lots 61-106 inclusive and lots 121-136 inclusive and Tracts A, B, C, D, E, F and G, Bayberry Estates, Unit One, as recorded in Plat Book 33 Pages 23, of the Public Records of Brevard County, Florida; and

Lots 27-60 inclusive and lots 107-120 inclusive and Tract D, Bayberry Estates, Unit Two, as recorded in Plat Book 33 Pages 24, of the Public Records of Brevard County Florida.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Bayberry Estates Homeowner's Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

Tracts A, B, C, D, E, F and G, BAYBERRY ESTATES, UNIT ONE, as recorded in Plat Book 33 at Pages 23 of the Public Records of Brevard County, Florida and Tract D, BAYBERRY ESTATES, UNIT TWO, as recorded in Plat book 33 at Pages 24 of the Public Records of Brevard County, Florida.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area and the dedicated streets.

Prepared by and return to: Marcia K. Tompkins, Attorney
1637 E. Vine St.
Kissimmee, FL 32743

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Section 6. "Dwelling" or "Unit" means a one-family dwelling unit which may or may not be attached to other dwelling units within a building. Dwellings in this subdivision shall be limited to single family detached and/or attached residential units subject to use regulations set forth by the City of Melbourne.

~~Section 7. "Group" or "Grouping" means a single building structure containing more than one dwelling unit.~~ *Rescind*

~~Section 8. "Declarant" shall mean and refer to MKT Housing Company, Inc. its successors and assigns.~~ *Rescind*

Section 9. "ARC" shall mean and refer to the Bayberry Estates Architectural Review Committee.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

(a) all provisions of this Declaration, any plat of all or any part or parts of the Properties, and the Articles of Incorporation and Bylaws of the Association;

(b) rules and regulations adopted by the Association governing use and enjoyment of the Common area;

(c) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility that may at some time become part of the Common Property owned by the Association;

(d) the right of the Association to suspend the voting rights and/or the right to use of any recreational facility by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulation.

(e) the right of the Association to dedicate, sell or transfer all or any part of the Common Area to any public agency, authority or utility for such purpose and subject to such conditions as may be agreed to by the members. No such dedication, sale or transfer shall be effective unless an instrument agreeing to such dedication, sale or transfer signed by two thirds (2/3) of each class of members has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-laws, his rights of enjoyment to the Common Area, to the members of his family, his tenants or contract purchasers who reside on the property.

Section 3. Permitted Uses. The Common Area, shall be restricted to the following uses:

The Common Area, now and forever, shall be restricted such that it shall be maintained as drainage areas, open space and/or recreation areas.

Section 4. Private Maintenance and Utility Easement: Since some Dwellings or Units or other structures within Bayberry may be constructed in close proximity to one or more boundary lines of such Unit's Lot, it is necessary to assure that the Owner of any such Unit, Dwelling or other structure, together with his guests, employees, servants, invitees, and, where necessary, the Association, shall have the right of ingress, egress and access to all portions that are in close proximity to a Lot line (where access might otherwise be restricted), for maintenance and utility purposes. Therefore, as noted on the Plat of Bayberry, a private, nonexclusive easement is hereby reserved for maintenance and utility purposes, together with the right of ingress and egress thereto, over that portion of all Lots, Tracts or Parcels contained within Bayberry, which are located within six (6) feet, measured at right angles, from the exterior wall(s) of any house, building, Dwelling, Unit or similar structure, constructed on any adjacent Lot in favor of and for the benefit of the Owner of such adjacent Lot, his guests, servants, employees, invitees and, where appropriate, the Association. The foregoing easement is intended to include the right of ingress and egress to

the easement area so that an Owner shall, at all times, have free and unobstructed access to the easement area. As noted on the plat and herein, the easement area shall be measured at right angles to all portions of Dwellings, Units or other structures located within six (6) feet of an adjacent Lot line, including at right angles to the corners of such structures, the result of which will be a fan shaped easement area on the adjacent Lot or Parcel, the outside boundary of which is six (6) feet from any structure on an adjacent Lot or Parcel.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two (2) classes of voting membership:

Class A. Class "A" members shall be all Owners with the exception of the Developer and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. Class "B" member(s) shall be the Developer as defined in this Declaration, and shall be entitled to three votes for each Lot owned. The Class "B" membership shall cease and be converted to Class "A" membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class "A" membership equals the total votes outstanding in Class "B" membership; or
- (b) on December 31, 1995.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within Bayberry Estates, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges which may be collected on a monthly, quarterly or semi-annual basis or other time periods as established by the Board of Directors, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Property at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Bayberry Estates subdivision and for the improvement and maintenance of the Common Areas and for all amenities constructed thereon.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$240.00 per year, (\$ 20.00 per month) per Lot.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than five percent (5%) above the

maximum assessment for the previous year without a vote of the membership.

(b) From an after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessment for Capital Improvement. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repaving, repair, or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, if any, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or Section 4 shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or proxies entitled to cast a majority of all the votes of each class of membership shall constitute a quorum.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, except that as long as there is Class "B" membership, the Developer or Declarant will have the following option:

(a) The Developer/Declarant may pay the annual assessment at the rate of twenty-five percent (25%) of the rate fixed for Class "A" membership on all unoccupied Lots owned by the Developer/Declarant and in addition, will pay the difference, if any, between the total operating expenses for the maintenance areas and the amount of assessments required to be paid pursuant to this Article; or

(b) The Developer/Declarant may pay the full rate of assessment at which time the obligation to pay the difference between expenses and assessments will cease.

Single Dwelling Assessments. In addition to the annual and special assessments authorized above, the Association may levy single unit assessments applicable only to a specific lot and unit that has failed to meet its maintenance obligations set forth in Article IX. The Single Dwelling Assessments shall have the assent of two-thirds (2/3) of the Board of Directors.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot as least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The assessments, at the election of the Board of Directors, may be collected on a monthly, quarterly or semi-annual basis. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of its issuance. The Association may delegate to a mortgage company or financial institution responsibility for collection of assessments.

Section 8. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days of the due date shall bear interest from the due date at the highest rate allowable by law per annum. The Association may bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien against the Lot. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

majority 69 of 136 houses

A first mortgage, upon request, is entitled to written notification from the Association of any default in the payment of any assessment which is not cured within sixty (60) days.

Section 9. Subordination of the Lien to Mortgages. A lien assessment provided for herein shall be superior to all other liens, except tax liens and the lien of any first mortgage held or insured by an Institutional Mortgagee regardless of the period of amortization. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to the foreclosure or any proceeding in lieu thereof of a first mortgage meeting the above qualifications, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. For purposes of this section, Institutional Mortgagee shall mean a bank, savings and loan association, insurance company or union pension fund authorized to do business in the United States of America, an agency of the United States Government, or real estate or mortgage investment trust, or a lender generally recognized in the community as an institutional type lender. The term "Institutional Mortgagee" shall also include the Developer or a designee of the Developer where the Developer or its designee is the holder of a mortgage on a Lot or on any portion of the initial Properties.

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. Review by Architectural Review Committee. No building, fence, wall or other structure shall be commenced, erected or maintained upon any Lot unless it is in compliance with the zoning code of the City of Melbourne, Florida, and other applicable regulations and unless and until the plans and specifications showing the nature, kind, shape, height, materials, colors and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Bayberry Estates Architectural Review Committee hereinafter known as ARC.

Section 2. Procedure for Review. Any Owner needing the approval of the ARC shall deliver an application or request for action to the ARC by certified mail with return receipt requested or by hand delivery with signed receipt together with a floor plan, elevation plan, landscaping plan, site clearing plan and abbreviated specifications, including exterior material and colors. As soon as reasonably possible, but not later than thirty (30) days after receipt, the ARC shall indicate its approval or disapproval of the matters required to be acted upon by them by a written instrument, and served personally or by certified mail upon the Owner and all interested parties, identifying the proposed building or structure and either stating approval or giving and making recommendations for changes to gain approval. In the event the ARC takes no action on the application or request within the thirty (30) day period, then the application or request shall be deemed to be accepted.

* Section 3. Composition of Architectural Review Committee. The ARC shall have at least three (3) members who shall initially be appointed by the Declarant. The members appointed to the ARC do not need to be Owners. So long as the Declarant maintains a controlling vote of the membership of the Association under the terms of Article III of this Declaration, the Declarant shall be entitled to appoint all members of the ARC and any successor members; provided, however, the Declarant shall at any time have the right to waive its right to appoint the members of the ARC. In the event of death, resignation, inability to serve, or other vacancy in office of any member of the ARC, the Declarant shall promptly appoint a successor member of the ARC who shall serve at the pleasure of the Declarant. After the end of the term during which the Declarant may appoint all the members of the ARC, the directors of the Association shall become the ARC members or the directors may appoint three (3) or more representatives to serve as the ARC committee.

ARTICLE VI

EASEMENT RESERVED TO DECLARANT

Section 1. Easement over Common Area. For so long as Declarant is the owner of a Lot in the Property, the Declarant hereby reserves unto itself the right to grant an easement in perpetuity over, upon, under and across all Common Areas shown on the recorded subdivision plat of the Property together with the right to grant easements to others and such easement shall include, but shall not be limited to, the right to use the said Common Area to erect, maintain and use electric and telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, cable television, water or other public conveniences or utilities, drainage and retention and the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation or to provide for drainage and retention and to maintain reasonable standards of health, safety and appearance and the right to locate wells, pumping stations and tanks; provided, however, that said reservation and right shall not be considered an obligation of the Declarant to provide or maintain any such utility or service.

Section 2. Easement over Lots. For so long as Declarant is the Owner of any Lot, the Declarant hereby reserves unto itself the right to reserve an easement to itself or grant an easement to any other entity over each Lot owned by Declarant for purposes of ingress and egress, to include drainage, utility, gas, telephone, cable TV and electrical services. With respect to an easement thus granted, the Declarant shall have and does hereby retain and reserve the right to release the Lot from the encumbrance of the easement; provided however, that Declarant shall not have the power to release any portion of a utility easement on a Lot without the consent of the utility company providing the utilities served by that utility easement.

Section 3. Establishment of Easements. All easements, as provided for in this Article, shall be established by one or more of the following methods, to wit:

- (a) By a specific designation of an easement on the recorded plat of the Bayberry Estates;
- (b) by a reservation or specific statement providing for an easement in the deed of conveyance of a given Lot or Dwelling Unit;
- (c) by a separate instrument, said instrument to be subsequently recorded by the Declarant;
- (d) by virtue of the reservation of rights set forth in Section 2 of this Article and Section 21 of Article IX.

Section 4. Easement Restrictions. Easements for installation and maintenance of utilities and drainage facilities are reserved as designated in Section 3 of this Article. Within these easements, no structure, planting or other material shall be placed or permitted to remain which would damage or interfere with the installation or maintenance of the utilities or which may change the direction of flow or drainage channels in the easements.

ARTICLE VII

DUTIES OF THE ASSOCIATION REGARDING TAXES, MAINTENANCE,
SIGN MAINTENANCE AND STREET LIGHTING

Section 1. Taxes on Common Property. The Association shall govern, operate, control and manage the Lots and Common Properties pursuant to the terms and provisions of this Declaration and the Association's Articles of Incorporation and By-Laws. The Association shall at all times pay the real property ad valorem taxes on the Common Properties if said taxes are billed to the Association as differentiated from being billed to the Lot Owners. The Association shall also pay any governmental lien on the Common Properties.

Section 2. Maintenance. The Association shall have the obligation and responsibility for hiring of certain personnel to perform maintenance and upkeep of the Common Properties.

Section 3. Property Sign Maintenance. Should the Developer in its sole discretion decide to construct a sign identifying the community, the

Association shall maintain and repair such sign in a first class condition and shall repair and replace such sign as may be required.

Section 4. Street Lights. The Association shall pay all the costs and expenses for electricity for any street lights which are installed by the developer or the utility company, unless a special lighting district is established for the community. The Association shall further be responsible for the maintenance and repair of such street lights, including replacing the light bulbs located thereon, unless the obligations described herein are performed by and at the expense of the applicable power and light company.

Section 5. Assessments. Funds for the above stated duties of the Association shall be provided through the regular assessments to Owners set forth in Article IV of this Declaration.

ARTICLE VIII

INSURANCE FOR COMMON AREA

Section 1. Standard Risk. The Association shall keep any buildings in the Common Area insured against loss by fire and the risks covered by a Standard All Risk of Loss Perils insurance policy under an extended coverage casualty policy in the amount of the maximum insurable replacement value thereof, and all personal property owned by the Association insured with coverage in the maximum insurable fair market value of such personal property as determined annually by an insurance carrier selected by the Association. Insurance proceeds for improvements in the Common Area and any personal property owned by the Association shall be payable to the Association. In the event of any loss, damage or destruction, the Association shall cause the same to be replaced, repaired or rebuilt if it occurred in the Common Area. In the event the cost of such replacement, repair or rebuilding of improvements on the Common Area exceeds the insurance proceeds available therefor, or no insurance proceeds are available therefor, the deficiency or full cost thereof shall be assessed to the Owners.

Section 2. Public Liability. The Association shall procure and keep in force public liability insurance in the name of the Association against any liability for personal injury or property damage resulting from occurrence in or about the Common Area, in such amounts as the Board of Directors so designates.

Section 3. Policy Requirements. Copies of all such insurance policies (or certificates thereof showing the premiums thereon to have been paid) shall be retained by the Association and made available for inspection by Owners at any reasonable time. All such insurance policies shall provide that they shall not be cancelable by the insurer without first giving at least ten (10) days prior notice in writing to the Association, and contain a waiver of subrogation by the insurer(s) against the Association, Board and Owners.

Section 4. VA/FHA Insurance Requirements. Anything contained herein to the contrary notwithstanding, the Association shall maintain such insurance coverage as may be required by the Veterans Administration ("VA"), the Federal Housing Administration ("FHA"), or the Federal National Mortgage Association ("FNMA") so long as VA, FHA or FNMA holds a mortgage on or owns any Lot.

Section 5. Other Insurance. In addition, the Board shall have the right to obtain Directors' and Officers' liability insurance, fidelity insurance and other insurance it may deem proper to protect the Association, its members and property. All insurance premiums for such coverage shall be paid for by the Association and assessed as appropriate to all Owners.

ARTICLE IX

GENERAL RESTRICTIONS

Section 1. General Restrictive Covenants. The general restrictive covenants contained in this Article shall apply uniformly to all Lots in the Property.

Section 2. Residential Use Only. No lot shall be used for any purpose except residential. The term "residential" is intended to prohibit any commercial use, including professional office use of any portion of any Lot

or Dwelling Unit. No building shall be erected, altered, placed or permitted to remain on any Lot other than the Dwelling Units designated for residential use and private garages. The foregoing shall not prohibit the Declarant from using Dwelling Units as models or offices.

Section 3. Temporary Structures and Use. No structure of a temporary character, including but not limited to, trailer, house trailer, mobile home, camper, tent, shed, boat, recreational vehicle, basement, shack, garage, barn or other building shall be moved to, erected on, or used on any Lot at any time for a residence, workshop, office, storage room, either permanently or temporarily unless approved by the ARC. This prohibition shall not apply to shelters used by the Declarant or his assigns during the construction of any Dwelling Unit. No canvas, pipe or other type of carport shall be placed between the front Lot line and the front building line on any Lot. Except during the delivery to homes, no commercial vehicles shall be parked in areas zoned for residential uses, including the streets adjacent to the residential lots. No business, service repair, or maintenance for the general public shall be allowed on any Lot at any time.

Section 4. Signs. No commercial signs, or other signs, shall be erected or maintained on any Lot or Dwelling Unit except with the written permission of the ARC or except as may be required by legal proceedings, it being understood that the ARC will not grant permission for said signs unless their erection is reasonably necessary to avert serious hardship to the Owner. Such prohibition shall not apply to common commercial real estate signs advertising that a particular Lot or Dwelling Unit is for sale provided that such signs are not illuminated and do not exceed four (4) square feet. However, the ARC shall have the right to restrict size, color and content of such signs. Property identification and like signs exceeding a combined total of more than two (2) square feet may not be erected without the written permission of the ARC. These restrictions shall not apply to restrict the Declarant or its agents from erecting such signs as the Declarant deems in its sole discretion to be necessary to assist the Declarant in selling any Lot or Dwelling Unit.

Section 5. Restriction on Activity. No obnoxious or offensive activity shall be conducted or permitted to exist upon any Lot, nor shall anything be done or permitted to exist on any Lot that may be or may become an annoyance or private or public nuisance. No Lot, driveway or Common Area shall be used for the purpose of vehicle repair or maintenance.

Section 6. Antenna and Aerials. Unless the ARC has given its prior written approval, no antenna, aerial or satellite receiving dish shall be placed upon a Unit or within a Lot. The granting by the ARC of its approval in one instance shall not affect the ability of the Committee to withhold its approval in other instances for any reason whatsoever.

Section 7. Pets. No animals, livestock or poultry of any kind, other than common, traditional domesticated house pets (i.e. dogs, cats, fish and caged birds), shall be kept by an Owner or his family members, guests, invitees or lessees, provided, however, that (a) no animals whatsoever may be kept or maintained for commercial purposes, (b) no animals shall be permitted to remain on any portion of the properties which become an unreasonable nuisance or annoyance to other owners and (c) any animal kept by an Owner shall be kept subject to any rules and regulations which may be promulgated from time to time by the Board. In no event shall ~~dogs~~ ^{dogs} be permitted upon the open areas unless under leash. Any Owner who keeps a pet thereby agrees to indemnify the Association and hold it harmless against any loss or liabilities of any kind or character whatsoever arising from or growing out of the keeping of any such pet. No permitted pet shall be allowed to make noise in a manner or of such volume as to annoy or disturb other Owners.

Section 8. Visibility in Corner Lots. Notwithstanding anything to the contrary in these restrictions, no obstruction to visibility at street intersections shall be permitted and such visibility clearances shall be maintained as required by the Department of Public Works.

Section 9. Awnings and Shutters. No awnings, canopies or shutters, including hurricane or storm shutters, shall be attached or affixed to the exterior of a building unless such awnings, canopies or shutters have been approved by the ARC, which approval shall be based on the aesthetic appearance of the properties.

Section 10. Additions to Units; Fences. No Unit shall be enlarged by any addition or remodeling thereto, including garages, porches, Florida rooms

or detached utility buildings without the prior written consent thereto from the ARC. Nor shall any fence be erected or permitted to remain on any Lot without prior written consent thereto from the ARC.

Section 11. Parking of Vehicles. Each Owner has the right to the exclusive use of the parking spaces which are located within that Owner's property lines. Any common parking spaces shall be subject to the rules and regulations of the Board of Directors. Lot Owners are prohibited from making major repairs on vehicles on any Lot or adjacent streets. No vehicles may be parked on any grassed area of the Lots. No vehicles which extend beyond the length of the Owner's parking spaces may be parked in such spaces. Permission must be obtained in writing from the ARC for the parking of any commercial or recreational vehicles, trailers, boats or campers on any Lot. Parking in the Common Areas shall be regulated by the rules of the Association. There shall be no parking on the streets or the street right of way area.

Section 12. Garbage and Litter. No Owner shall sweep or throw from his Unit any dirt or other materials, or litter in any way the Properties. ~~No articles shall be hung from the windows or doors of the Dwelling Units.~~ No garbage, trash, refuse or rubbish shall be kept on any part of the Properties except in closed containers in a manner prescribed by the rules and regulations of the Association as promulgated by the Board.

Section 13. Provisions Inoperative as to Initial Construction. Nothing contained in this Declaration shall be interpreted or construed to prevent Developer, its transferees, or its subcontractors, from performing on any part of the Properties owned and controlled by the Developer, or its transferees, whatever functions they may determine to be reasonably necessary or advisable in connection with the completion of the work including without limitation:

- (a) erecting, constructing and maintaining thereon such structures as may be reasonably necessary for the conducting of the Developer's business of completing the construction and establishing the Properties as a residential community and disposing of the same by sale, lease or otherwise.
- (b) maintaining structures of a temporary character for use as a construction office or storage or sales office.
- (c) Maintaining such signs thereon as may be reasonably necessary for the sale, lease, or other transfer of the Properties including those relating to properties to be annexed in the future.

(4) — As used in this section, the term "its transferees" specifically does not include purchasers of completed residences.

Section 14. Garage Doors. In order to maintain a harmonious and aesthetic appearance, the garage doors affixed to each Dwelling Unit shall remain closed except when in actual use to allow ingress and egress into the garage.

Section 15. Insect and Fire Control. In order to implement effective insect, reptile and woods fire control, the Association shall have the right, but not the duty, to enter upon any Lot, such entry to be made by personnel with tractors or other suitable devices, for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, which in the opinion of the Association detracts from the overall beauty, setting and safety of the Property. Such entrance for the purpose of mowing, cutting, clearing or pruning shall not be deemed a trespass but shall be deemed a license coupled with an interest. The Association and its agents may likewise enter upon such land to remove any trash which has collected on such Lot or Dwelling Unit without such entrance and removal being deemed a trespass. The provisions in this Section shall not be construed as an obligation on the part of the Association to mow, clear, cut or prune any Lot nor to provide garbage or trash removal services. The costs incurred by the Association in exercising its rights under this Section shall constitute a special assessment against the Owner of the Lot or Dwelling Unit and shall in every respect constitute a lien on the Lot or Dwelling Unit as would any assessment or special assessment.

Section 16. Exterior Maintenance. The Association shall have the right, but not the duty, to provide any exterior maintenance including repairs to walls and roofs, painting, landscaping and lawn maintenance for any Lot which in the opinion of the Association detracts from the overall beauty of the Properties due to the failure of the Owner to properly

maintain. The Association shall have the right to make reasonable repairs and perform reasonable maintenance in its sole discretion, after notice to an Owner of a Dwelling Unit to perform maintenance and failure by the Owner to perform such maintenance. Any and all costs incurred by the Association in performing repairs and maintenance under this Section shall be paid out by the Owner and if the Owner fails to pay, then the Association shall have the right to impose a special assessment against said Owner to pay for the cost of repairs and replacements. Such assessment shall in every respect constitute a lien on the Lot or Dwelling Unit as would any other assessment or special assessment by the Association. The Association shall have the right to enter upon any Lot or upon the exterior of any Dwelling Unit for the purpose of providing repairs and maintenance as provided in this Section, and any such entry by the Association or its agent shall not be deemed a trespass.

Section 17. Access at Reasonable Hours. For the sole purpose or performing any maintenance or repairs authorized by this Declaration, the Association, through its duly authorized agents, contractors or employees shall have a license which shall be exercisable after reasonable notice to the Owner to enter upon any Lot or exterior of any Dwelling Unit at reasonable hours on any day of the week.

Section 18. Tree Removal Restrictions. Trees situated on any Lot between building set back lines and the property lines having a diameter of eight inches (8") or more (measured four feet (4') from ground level) may not be removed without prior approval of the ARC. All requests for approval of tree removal shall be submitted to the ARC along with a plan showing generally the location of such tree(s).

Section 19. Replacement of Trees. Anyone violating the provisions of Section 18 will be required to replace such trees with trees of like kind, size and condition within thirty (30) days after demand by the Association. If the Owner fails or refuses to replace the trees as demanded, the Association may cause suitable replacements to be planted and the cost thereof shall be a lien against the property of the Owner. The Owner grants to the Association, its agents and employees an easement of ingress and egress over and across said Lot to enable it to comply with Sections 15, 16, 17, 18 and 19.

Section 20. Clothes Lines. The installation and use of clothes lines in the yards of the lots shall be subject to review and approval of the ARC.

Section 21. Easement for Construction Overlap. An exclusive easement for the unintentional encroachment by any Dwelling Unit upon any other Lot caused by or resulting from the original construction of improvements shall exist at all times during the continuance of such encroachment, as an easement appurtenant to the encroaching Unit or other improvement, to the extent of such encroachment. This section shall only apply to attached dwelling units.

Section 22. Insurance on Attached Dwelling Units and Duty to Repair. Each Owner of a dwelling unit that is attached to another dwelling unit shall be required to obtain and maintain adequate insurance on his/her Dwelling Unit which shall insure the property for its full replacement value, with no deductions for depreciation, against loss by fire, wind, flood or other hazards. Such insurance shall be sufficient to cover the full replacement value, or for necessary repairs or reconstruction work. The purpose of this requirement is to protect, preserve and provide for the continued maintenance and support of separately owned Dwellings which include common party walls, connected roof structures and/or other parts of the dwellings which are connected. A copy of the insurance policy shall be furnished by the Owner to the record owners of all attached dwellings within that Grouping or building. If the insurance provided under this Article has not otherwise been adequately obtained by each Owner, then the Owners of other attached dwellings in that Grouping shall have right, but not the duty, to obtain said coverage. If the subject dwelling unit's owner fails to pay the insurance premium for insurance on his dwelling, then the adjoining owners shall have the right to file a lien against the subject property for the premiums paid, all costs, interest at the highest rate allowable by law and attorney fees relating to this matter. Each policy shall contain a clause that states that it cannot be canceled until ten (10) days notice has been given to the record owners of the adjoining units. It is the duty of each Owner to notify the other Owners within his/her Grouping of any change in ownership.

Duty to Repair. In the event that a unit or any part thereof is destroyed by casualty or otherwise, the Owners thereof shall promptly clear all debris resulting therefrom and commence either to rebuild or repair the damaged improvements within ninety (90) days unless all Owners in the Grouping mutually agree not to rebuild. In the event all the Owners decide not to rebuild, Owners shall clear the debris from the lots and grass shall be planted on the lot within ninety (90) days. All lots are subject to the assessments of the association whether vacant or occupied.

Section 23. Duty to Repair - Detached Dwelling Units. Each owner of a detached dwelling unit shall have the duty to begin repairs on any damaged unit within ninety (90) days of the casualty. Any change to the exterior of the dwelling unit shall be subject to review by the ARC. In the event the dwelling unit is destroyed by the casualty, Owner shall not be required to rebuild. However, if the Owner does not begin construction, the Owner shall clear the debris from the lot and grass shall be planted on the lot within ninety (90) days. All lots are subject to the assessments of the association whether vacant or occupied.

Section 24. Party Walls and Common Driveways. All common or party walls and common driveways shall be maintained by the Owners of those Dwelling Units adjoining a party wall or served by a common driveway subject to the right, but not the obligation, of the Association to maintain the same as hereinafter set forth. If an Owner, or his agents, guests, invitees or others whose presence is authorized by an Owner, including an Owner's tenant, damages a party or common wall or common driveway, or causes damage to the person or property of an adjoining Owner or tenant as a result of damage to a party or common wall or common driveway arising from the negligence or intentional acts of said Owner or tenant, the said Owner shall be liable and responsible for the damages to the party wall or common driveway and for the damages to the person or property of the adjoining Owner or tenant, and for any costs incurred by the association or adjoining Owner or tenant in repairing the party wall or common driveway. All costs of reconstructing a party wall or common driveway in the event such party wall or common driveway is destroyed or damaged not as the result of the negligence or intentional acts of either adjoining Owner or their tenants, shall be borne equally by the Owners of the Dwelling Units adjoining such party wall or sharing the driveway. In the event one Owner bears the entire expense for reconstruction of a party wall or common driveway, then in such event the Owner of the adjoining Dwelling Units shall pay to the Owner who reconstructed the party wall or common driveway one-half ($\frac{1}{2}$) of the expense incurred in that reconstruction. Either adjoining Owner and the Association shall have the right to enter on the other adjoining Lot and into the adjoining Dwelling Unit, after notice, solely for the purpose of reconstructing a party wall or common driveway where a threat to life or property exists and non-construction or repair will perpetuate that threat. Either adjoining Owner shall have an equal right to use a party wall for the support of structural members of a Dwelling Unit to be constructed on either adjoining Lots. This right shall be subject, however, to payment by the Owner seeking to tie into the party wall of any costs involved in tying into the party wall and payment of any damage occasioned therefrom. Each party wall shall be subject to an easement of support for adjoining Dwelling Units subject to payment of costs as provided above and shall be subject to an easement for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to adjoining Dwelling Units.

ARTICLE X

GENERAL PROVISIONS

Section 1. Restrictions Uniform. These restrictions and covenants are to run with the land and are hereby incorporated by reference in all deeds or other instruments of conveyance which the Subdivider may execute and deliver conveying land in this Subdivision whether or not specific mention of the restrictions is made in such deeds or other instruments of conveyance. The Owner or occupant of each and every Lot or parcel of land in the subdivision, by acceptance of title thereto or by taking of land in the subdivision, thereby covenants and agrees for himself/herself, his/her heirs, executors,

administrators, successors and assigns, that he/she will comply with and abide by each of the restrictions contained in this Declaration of Restrictions and that he/she will exert his/her best efforts to keep and maintain the land in this subdivision as an area of high standard.

Section 2. Enforcement. The Association, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. If the Association or any Owner shall seek to enforce the provisions of this Declaration, then said party shall be entitled to collect its fees and costs, including reasonable attorneys' fees, whether incurred before trial, at trial or upon appeal.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 4. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the Owners of ninety percent (90%) or more of the Lots, and thereafter by an instrument signed by the Owners of seventy-five percent (75%) or more of the Lots. Notwithstanding the above, the Developer shall have the right, during the first two (2) years from the date the covenants are recorded, to amend this Declaration to clarify any ambiguities or conflicts, subject, however, to approval by the Veterans Administration.

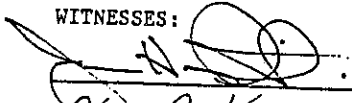
Section 5. Covenants Against Partition and Separate Transfer of Membership Rights. Recognizing that the full use and enjoyment of any Lot is dependent upon the right to the use and enjoyment of the Common Area and the improvements made thereto, and that it is in the interests of all of the Owners that the right to the use and enjoyment of the Common Area be retained by the Owners of Lots, it is therefore declared that the right to the use and enjoyment of any Owner in the Common Area shall remain undivided, and such Owners shall have no right at law or equity to seek partition or severance of such right to the use and enjoyment of the Common Area. In addition, there shall exist no right to transfer the right to the use and enjoyment of the Common Area in any manner other than as an appurtenance to and in the same transaction with, a transfer of title to a Lot. Any conveyance or transfer of a Lot shall include the right to use and enjoyment of the Common Area appurtenant to such Lot, subject to reasonable rules and regulations promulgated by the Declarant or the Association or the ARC for such use and enjoyment, whether or not such rights shall have been described or referred to in the deed by which said Lot is conveyed.

Section 6. VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Veterans Administration: annexation of additional properties, mergers, consolidations, mortgaging of any common area, dedication of Common Area, amendment of this Declaration and dissolution of the Association.

Section 7. Annexation. Additional residential property and Limited Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

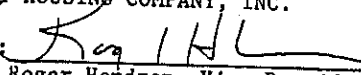
IN WITNESS WHEREOF, the undersigned, being the Developer herein, has hereunto executed this Declaration this 2nd day of September, 1986.

WITNESSES:



John P. Keene

MKT HOUSING COMPANY, INC.

BK: 
Roger Hendren, Vice President

Attest: 
Sandra P. Lucas, Secretary

OFF. REC.

2743

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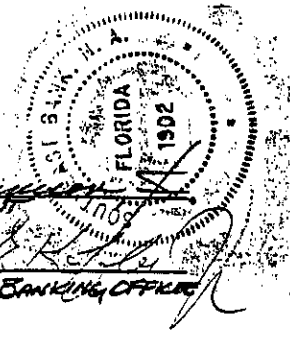
17

Mark E. Shedd
Barbara A. Newitt

SOUTHEAST BANK, N.A.

BY: Robert G. Keeler
VICE PRESIDENT

ATTEST: Janet E. Keene
REAL ESTATE BANKING OFFICER



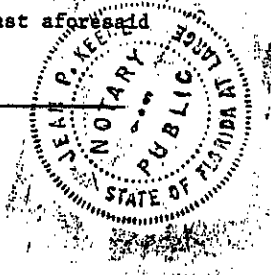
STATE OF FLORIDA
COUNTY OF

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared ROGER HENDREN and SANDRA P. LUCAS to me well known to be the Vice President and Secretary, respectively, of MKT HOUSING COMPANY, INC., a Florida Corporation, and that they acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation, and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State last aforesaid this 2nd day of September, 1986.

Jan P. Keene
Notary Public

My Commission Expires: 5/1/87



STATE OF FLORIDA
COUNTY OF

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared Edward Dennison, Jr. and Robert G. Keeler, Jr. to me well known to be the Vice President and Real Estate Bank respectively of SOUTHEAST BANK, N.A. a National Banking Assoc. Officer and that they severally acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation, and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State last aforesaid this 2nd day of September, 1986.

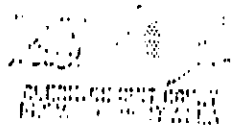
Janet E. Keene
Notary Public

My Commission Expires:

Notary Public, State of Florida at Large
My Commission Expires July 27, 1990
Bonded thru Huckleberry, Sibley &
Harvey Insurance and Bonds, Inc.



3
13,000
13,000



FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR BAYBERRY ESTATES UNITS ONE AND TWO
BREVARD COUNTY, FLORIDA

THIS AGREEMENT, made and entered into this 17th day of June,
1987, by MKT HOUSING COMPANY, INC., a Florida Corporation, (hereinafter
referred to as the Declarant), which term shall include the successors and
assigns of the said Declarant whenever the context so requires or admits, and
SOUTHEAST BANK, N.A., A National Banking Association, (hereinafter referred
to as the Mortgagee), which term shall include the successors and assigns of
the said Mortgagee whenever the context so requires or admits:

WITNESSETH

THAT WHEREAS, Declarant has previously executed a Declaration of
Covenants, Conditions and Restrictions for Bayberry Estates, Unit One and
Unit Two, Brevard County, Florida, dated September 2, 1986 and filed for
record October 30, 1986 in Official Records Book 2743 Pages 2022 through
2034, of the Public Records of Brevard County, Florida, (hereinafter referred
to as the Declaration); and

WHEREAS, Mortgagee is the owner and holder of that certain Mortgage
executed by Declarant in favor of Mortgagee, bearing date the 22nd day of
October, 1985, and recorded in Official Records Book 2643, Pages 2392-2411,
of the Public Records of Brevard County, Florida.

WHEREAS, Declarant desires to exercise the right granted to it under
Article X, Section 7 of the above referenced Declaration to annex additional
Common Area to the Properties.

Declarant hereby amends the above referenced Declaration to designate
the following real property as additional Common Area to be owned and
maintained by the Bayberry Estates Homeowner's Association, Inc.:

A portion of Lots 3 thru 10 and Tract "F" of Bayberry Estates
Unit One as recorded in Plat Book 33, Page 23 of the Public
Records, Brevard County, Florida; being more particularly
described as follows:

Begin at the Northwest corner of said plat of Bayberry Estates
Unit One; thence run N 89°34'38" E along the North line of
said plat 495.67 feet to the West right-of-way line of Bay-
berry Drive; thence run S 00°25'22" E along said right-of-way
line 10.00 feet; thence departing from said right-of-way line
run S 89°34'38" W 495.60 feet to the West line of said plat of
Bayberry Estates Unit One; thence run N 00°51'17" W along said
West line 10.00 feet to the Point of Beginning.

Prepared by: Marcia K. Tompkins, Attorney
1637 E. Vine St.
Kissimmee, Fl. 32743

Containing 0.114 acres more or less

AND

A portion of Lots 90 thru 98 of Bayberry Estates Unit One as recorded in Plat Book 33, Page 23 of the Public Records, Brevard County, Florida; being more particularly described as follows:

Begin at the Northeast corner of said plat of Bayberry Estates Unit One; thence run S 00°25'22" E along the East line of said plat 10.00 feet; thence run S 89°34'38" W 473.95 feet to the East right-of-way line of Bayberry Drive; thence run N 00°25'22" W along said right-of-way line 10.00 feet to the North line of said plat of Bayberry Estates Unit One; thence departing from said right-of-way run N 89°34'38" E along North line of said plat 473.95 feet to the Point of Beginning.

Containing 0.109 acres more or less.

The above referenced real property located in Bayberry Estates, Unit One is hereby designated as common area that shall be owned and maintained by the Bayberry Estates Homeowner's Association, Inc. It shall be used and enjoyed by all members of the Bayberry Estates Homeowner's Association, Inc.

Said annexation of additional Common Area has been authorized by all members of the Association.

Now therefore, Mortgagee as lien holder, and for that purpose only, has caused this Amendment to be executed on its behalf and hereby consents to the Amendment to said Declaration as hereinabove described.

Now therefore, except as above provided, the aforementioned Declaration shall remain unaffected, unchanged and unimpaired in every particular as set forth therein, except as amended by this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed all on the day and year first above written.

WITNESSES:

Roderick P. Lucas

Dorinda P. Lucas
Lisa M. Bell

MKT HOUSING COMPANY, INC.
A Florida Corporation

By: *James M. Cowart*
James M. Cowart, Vice President

SOUTHEAST BANK, N.A.
A National Banking Association

By: *W. Casey Reed*
W. CASEY REED, V.P.

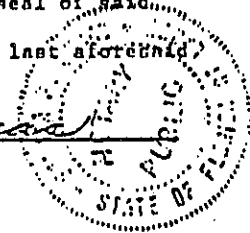


STATE OF FLORIDA
COUNTY OF OSCEOLA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared JAMES M. COWART, to me well known to be the Vice President of MKT HOUSING COMPANY, INC., a Florida Corporation, and that he acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him by said corporation, and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State last aforesaid, this 17th day of June, 1987.

Brandon P. Bucaria
Notary Public



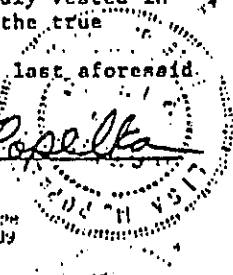
My Commission Expires: June 18, 1988

STATE OF FLORIDA
COUNTY OF Orange

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared W. Casey REED, to me well known to be the VICE PRESIDENT of Southeast Bank, N.A., a National Banking Association, and that he acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him by said corporation, and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State last aforesaid, this 23rd day of June, 1987.

Lisa M. Popelka
Notary Public



My Commission Expires:

Notary Public, State Of Florida At Large
My Commission Expires Feb. 24, 1989
Bonded By SAFECO Insurance Company of America

Scott Ellis

Clerk Of Courts, Brevard County



#Pgs: 27 #Names: 2
Trust: 14.00 Rec: 109.00 Serv: 0.00
Deed: 0.00 Excise: 0.00
Mtg: 0.00 Int Tax: 0.00

CFN 2003105405 04-10-2003 02:33 pm

OR Book/Page: 4876 / 2540

SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BAYBERRY ESTATES HOMEOWNERS ASSOCIATION, INC., UNITS ONE AND TWO, BREVARD COUNTY, FLORIDA

This SECOND AMENDMENT to the Declaration of Covenants, Conditions and Restrictions of Bayberry Estates Homeowners Association (the "Declaration") is made this 5 day of APRIL, 2003 by Bayberry Estates Homeowners Association, Inc. (the "Association"),

W I T N E S S E T H :

WHEREAS, the Association under that certain Declaration was executed for Bayberry Estates, Unit One and Unit Two, Brevard County, Florida, dated September 2, 1986 and filed for record October 30, 1986 in Official Records Book 2743, Page 2022 through 2034, of the Public records of Brevard County, Florida, is the Association pursuant to the said restrictions at Article I, Section 1, with the power to amend the Declaration, and

WHEREAS, the Association filed a First Amendment to this Declaration dated June 17, 1987 and recorded JUNE 1987 (date) in Official Records Book 2822, Page 2359 through 2361, to annex additional Common Area to the Properties, and

WHEREAS, the Association hereby amends the Declaration a Second time as hereinafter set forth.

NOW, THEREFORE, the Association hereby declares that:

1. The recitals mentioned above are true and correct and form a material part of this amendment.
2. The Association has received a written instrument signed by the owners of ninety percent (90%) or more of the lots in the subdivision which, pursuant to Article X, Section 4, allows the Association to amend the Declaration. A copy of the signed instrument by owners of ninety percent (90%) or more of

the lots is attached to this amendment as Exhibit A and made a part hereof.

3. Article I, Section 6 is amended as follows:

"Section 6. " Dwelling" or "Unit" means a one-family dwelling unit which is not attached to other dwelling units. Dwellings in this subdivision shall be limited to single family detached residential units subject to use regulations set forth by the City of Melbourne."

4. Article I, Section 7 is amended as follows:

"Section 7. RESCINDED."

5. Article I, Section 8 is amended as follows:

"Section 8. RESCINDED."

6. Article II, Section 1(e) is amended as follows:

"(e) the right of the Association to dedicate, sell or transfer all of any part of the Common Area to any public agency, authority or utility for such purpose and subject to such conditions as may be agreed to by the members. No such dedication, sale or transfer shall be effective unless an instrument agreeing to such dedication, sale or transfer signed by two thirds (2/3) of members has been recorded."

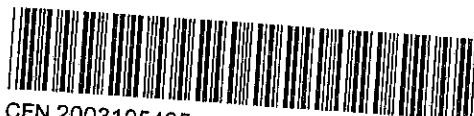
7. Article II, Section 3 is amended as follows:

"Section 3. Permitted Uses. The Common Area shall be restricted to the following uses:

The Common Area, now and forever, shall be restricted such that it shall be maintained as drainage areas, open space and/or recreation areas. Adding or removing a permanent structure to any Common Area requires an instrument agreeing to such addition signed by two thirds (2/3) of members."

8. Article III, Section 2 is amended as follows:

"Section 2. Members of the Association shall be all Owners and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot."



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9. Article IV, Section 1 is amended as follows:

"Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges which may be collected on a monthly, quarterly or semiannual basis or other time periods as established by the Board of Directors, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Property at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them."

10. Article IV, Section 3(b) is amended as follows:

"(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of members who are voting in person or by proxy, at a meeting duly called for this purpose."

11. Article IV, Section 6 is amended as follows:

"Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots.

"Single Dwelling Assessments. In addition to the annual and special assessments authorized above, the Association may levy single unit assessments applicable only to a specific lot and unit that has failed to meet its maintenance obligations set forth in Article IX of this Declaration. The Single Dwelling Assessments shall have the assent of two-thirds (2/3) of the Board of Directors."

12. Article IV, Section 8 is amended as follows:

"Section 8. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days of the due date shall bear interest from the due date at the highest rate allowable by law per annum. The Association may bring an action at law against the Owner personally obligated to pay the same and/or foreclose the



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Dues

lien against the Lot. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot."

13. Article IV, Section 9 is amended as follows:

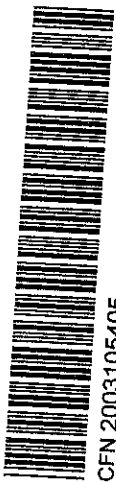
"Section 9. Subordination of the Lien to Mortgages. A lien assessment provided for herein shall be superior to all other liens, except tax liens and the lien of any first mortgage held or insured by an Institutional Mortgagee regardless of the period of amortization. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to the foreclosure or any proceeding in lieu thereof of a first mortgage meeting the above qualifications, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. For purposes of this section, Institutional Mortgagee shall mean a bank, savings and loan association, insurance company or union pension fund authorized to do business in the United States of America, an agency of the United States Government, or real estate or mortgage investment trust, or a lender generally recognized in the community as an institutional type lender."

14. Article V, Section 2 is amended as follows:

"Section 2. Procedure for Review. Any Owner needing the approval of the ARC shall deliver an application or request for action to the ARC by certified mail with return receipt requested or by hand delivery together with a floor plan, elevation plan, landscaping plan, site clearing plan and abbreviated specifications, including exterior material and colors. Receipt of the application will be acknowledged by the ARC. As soon as reasonably possible, but not later than thirty (30) days after receipt, the ARC shall indicate its approval or disapproval of the matters required to be acted upon by them by a written instrument, and served personally or by certified mail upon the Owner and all interested parties, identifying the proposed building or structure and either stating approval or giving and making recommendations for changes to gain approval. In the event the ARC takes no action on the application or request within the thirty (30) day period, then the application or request shall be deemed to be accepted."

15. Article V, Section 3 is amended as follows:

"Section 3. Composition of Architectural Review Committee. The ARC shall have at least three (3) members who shall be appointed by the Board of Directors. The members appointed to the ARC must be Owners. The Board of



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Directors shall be entitled to appoint all members of the ARC and any successor members; or the ARC may be comprised of volunteers from the membership; provided, however, the Board of Directors shall at any time have the right to waive its right to appoint the members of the ARC. In the event of death, resignation, inability to serve, or other vacancy in office of any member of the ARC, the Board of Directors shall promptly appoint a successor member of the ARC."

16. Article VI, Section 1 is amended as follows:

"Section 1. Easement over Common Area. The Association hereby reserves unto itself the right to grant an easement in perpetuity over, upon, under and across all Common Areas shown on the recorded subdivision plat of the Property together with the right to grant easements to others and such easement shall include, but shall not be limited to, the right to use the said Common Area to erect, maintain and use electric and telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, cable television, water or other public conveniences or utilities, drainage and retention and the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation or to provide for drainage and retention and to maintain reasonable standards of health, safety and appearance and the right to locate wells, pumping stations and tanks; provided, however, that said reservation and right shall not be considered an obligation of the Association to provide or maintain any such utility or service."

17. Article VI, Section 2 is amended as follows:

"Section 2. Easement over Lots. The City of Melbourne reserves the right to easement for installation and maintenance of utilities and drainage facilities."

18. Article VI, Section 3 is amended as follows:

"Section 3. Establishment of Easements. All easements, as provided for in this Article, shall be established by one or more of the following methods, to wit:

(a) By a specific designation of an easement on the recorded plat of the Bayberry Estates;

(b) By a reservation or specific statement providing for an easement in the deed of conveyance of a given Lot or Dwelling unit;

(c) By a separate instrument, said instrument to be subsequently recorded by the Board of Directors;

(d) RESCINDED."



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19. Article VII, Section 2 is amended as follows:

"Section 2. Maintenance. The Association shall have the obligation and responsibility for hiring of certain personnel to perform maintenance and upkeep of the Common Properties, to include cleaning and painting of both sides of the wall adjacent to Eber Road."

20. Article VII, Section 3 is amended as follows:

"Section 3. Property Sign Maintenance. The Association shall maintain and repair the sign identifying the community in a first class condition and shall repair and replace such sign as may be required."

21. Article VII, Section 4 is amended as follows;

"Section 4. Street Lights. RESCINDED."

22. Article VIII, Section 4 is amended as follows:

"Section 4. VA/FHA Insurance Requirements. RESCINDED."

23. Article VIII is amended to add Section 6 as follows:

"Section 6. Insurance Policy Review. The Board of Directors shall be responsible for Insurance Policy review at least every five (5) years to determine continued adequacy of policy."

24. Article IX, Section 2 is amended as follows:

"Section 2. Residential Use Only. No lot shall be used for any purpose except residential. The term "residential" is intended to prohibit any commercial use, including professional office use of any portion of any Lot or Dwelling Unit. No building shall be erected, altered, placed or permitted to remain on any Lot other than the Dwelling Units designated for residential use and private garages."

25. Article IX, Section 3 is amended as follows:

"Section 3. Temporary Structures and Use. No structure of a temporary character, including but not limited to, trailer, house trailer, mobile home, camper, tent, shed, boat, recreational vehicle, basement, shack, garage, barn or other building shall be moved to, erected on, or used on any Lot at any time for a residence, workshop, office, storage room, either permanently or temporarily unless approved by the ARC. No canvas, pipe or other type of carport shall be placed between the front Lot line and the front building line on any Lot. Except during the delivery to homes, and work contracted by the homeowner,



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no commercial vehicles shall be parked in areas zoned for residential uses, including the streets adjacent to the residential lots. Under no circumstances shall commercial vehicles be permitted to park overnight in residential zones. No business, service repair, or maintenance for the general public shall be conducted on any Lot at any time."

26. Article IX, Section 4 is amended as follows:

"Section 4. Signs. No commercial signs, or other signs, shall be erected or maintained on any Lot or Dwelling Unit except with the written permission of the ARC or except as may be required by legal proceedings, it being understood that the ARC will not grant permission for said signs unless their erection is reasonably necessary to avert serious hardship to the Owner. Such prohibition shall not apply to common commercial real estate signs advertising that a particular Lot or Dwelling Unit is for sale provided that such signs are not illuminated and do not exceed four (4) square feet. However, the ARC shall have the right to restrict size, color and content of such signs. Property identification and like signs exceeding a combined total of more than two (2) square feet may not be erected without the written permission of the ARC."

27. Article IX. Section 6 is amended as follows:

"Section 6. Antenna and Aerials. RESCINDED."

28. Article IX, Section 7 is amended as follows:

"Section 7. Pets. No animals, livestock or poultry of any kind, other than common, traditional domesticated house pets (i.e., dogs, cats, fish and caged birds), shall be kept by an Owner of his family members, guests, invitees or lessees, provided, however, that (a) no animals whatsoever may be kept or maintained for commercial purposes, (b) no animals shall be permitted to remain on any portion of the properties which become an unreasonable nuisance or annoyance to other owners, and (c) any animal kept by an Owner shall be kept subject to any rules and regulations which may be promulgated from time to time by the Board. In no event shall pets be permitted upon the open areas unless under leash. Each Owner shall be responsible for cleanup of the pet. Any Owner who keeps a pet thereby agrees to indemnify the Association and hold it harmless against any loss or liability of any kind or character whatsoever arising from or growing out of the keeping of any such pet. No permitted pet shall be allowed to make noise in a manner or of such volume as to annoy or disturb other Owners."

29. Article IX, Section 10 is amended as follows:

"Section 10. Additions to Units; Fences. No Unit



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shall be enlarged by any addition or remodeling thereto, including garages, porches, Florida rooms or detached utility buildings without the prior written consent thereto from the ARC. Nor shall any fence be erected or permitted to remain on any Lot without prior written consent thereto from the ARC. For the enjoyment and aesthetic appeal, no fences shall be permitted on any Lot abutting the Common area surrounding the retention pond/lake."

30. Article IX, Section 11 is amended as follows:

"Section 11. Parking of Vehicles. Each Owner has the right to the exclusive use of the parking spaces which are located within that Owner's property lines. Any common parking spaces shall be subject to the rules and regulations of the Board of Directors. Lot Owners are prohibited from making major repairs on vehicles on any Lot or adjacent streets. No vehicles may be parked on any grassed area of the Lots. No vehicles which extend beyond the length of the Owner's parking spaces may be parked in such spaces. Permission must be obtained in writing from the ARC for the parking of any commercial or recreational vehicles, trailers, boats or campers on any Lot. Parking in the Common Areas shall be regulated by the rules of the Association."

31. Article IX, Section 12 is amended as follows:

"Section 12. Garbage and Litter. No Owner shall sweep or throw from his Unit any dirt or other materials, or litter the Properties in any way. No garbage, trash, refuse or rubbish shall be kept on any part of the Properties except in closed containers in a manner prescribed by the rules and regulations of the Association as promulgated by the Board.

32. Article IX, Section 13 is amended as follows:

"Section 13. Provisions Inoperative as to Initial Construction. RESCINDED."

33. Article IX, Section 14 is amended as follows:

"Section 14. Garage Doors. RESCINDED."

34. Article IX, Sections 18 and 19 are amended and combined as follows:

"Section 18. Tree Removal and Replacement. Trees situated on any Lot may not be removed or replaced without prior notification to the ARC.

"Section 19. RESCINDED."



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35. Article IX, Section 21 is amended as follows:

"Section 21. Easement for Construction Overlap.
RESCINDED."

36. Article IX, Section 22 is amended as follows:

"Section 22. Insurance on Attached Dwelling Units and Duty to Repair. RESCINDED."

37. Article IX, Section 24 is amended as follows:

"Section 24. Party Walls and Common Driveways.
RESCINDED."

38. Article X, Section 4 is amended as follows:

"Section 4. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is first recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the Owners of ninety percent (90%) or more of the Lots, and thereafter by an instrument signed by the Owners of seventy-five percent (75%) or more of the Lots."

39. Article X, Section 5 is amended as follows:

"Section 5. Covenants Against Partition and Separate Transfer of Membership Rights. Recognizing that the full use and enjoyment of any Lot is dependent upon the right to the use and enjoyment of the Common Area and the improvements made thereto, and that it is in the interests of all of the Owners that the right to the use and enjoyment of the Common Area be retained by the Owners of Lots, it is therefore declared that the right to the use and enjoyment of any Owner in the Common Area shall remain undivided, and such Owners shall have no right at law or equity to seek partition or severance of such right to the use and enjoyment of the Common Area. In addition, there shall exist no right to transfer the right to the use and enjoyment of the Common Area in any manner other than as an appurtenance to and in the same transaction with, a transfer of title to a Lot. Any conveyance or transfer of a Lot shall include the right to use and enjoyment of the Common Area appurtenant to such Lot, subject to reasonable rules and regulations promulgated by the Association or the ARC for such use and enjoyment, whether or not such rights shall have been described or referred to in the deed by which said Lot is conveyed."

40. Article X, Section 6 is amended as follows:

"Section 6. VA Approval. RESCINDED."

41. Article X, Section 7 is amended to read as follows:

"Section 7. Annexation. Additional residential property and Limited Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of members."

This Second Amendment to the aforementioned Declaration has been approved by at least ninety percent (90%) of all members of the Association, as attested by signatures on file with the Association.

IN WITNESS WHEREOF, the undersigned has hereunto executed this Declaration this 5th day of APRIL, 2003.

WITNESSES:

BAYBERRY ESTATES HOMEOWNERS ASSOCIATION, INC.

May B. Lord
Roberta B. Luke

By:

Patricia A. Piekos

Patricia A. Piekos, President

Attest:

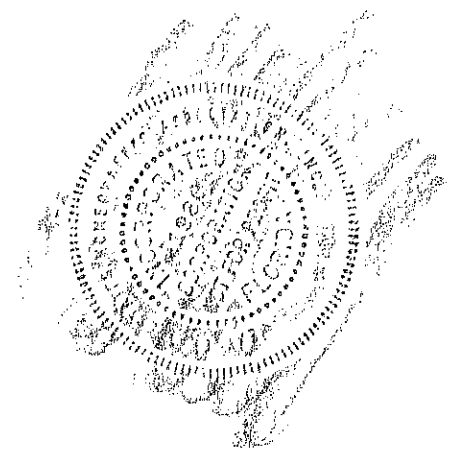
Charlotte Perry

Charlotte Perry, Secretary



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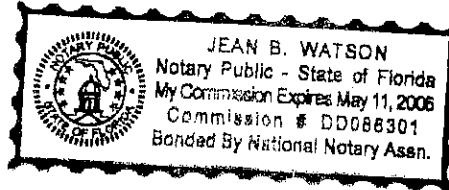
STATE OF FLORIDA
COUNTY OF BREVARD

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared PATRICIA A. PIEKOS, to me well known to be the President of BAYBERRY ESTATES HOMEOWNERS ASSOCIATION, INC., a Florida Corporation, and that she acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in her by said Corporation, and that the seal affixed thereto is the true corporate seal of said Corporation.

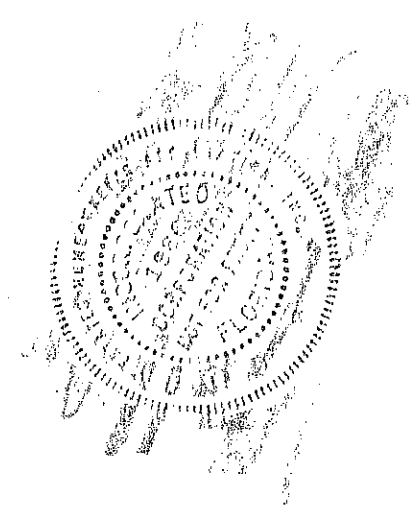
WITNESS my hand and official seal in the County and State last aforesaid this 5 day of April, 2003.

Jean B Watson
Notary Public

My Commission Expires: May 11, 2006



CFN 2003105405
OR Book/Page: 4876 / 2550



State of Florida



Department of State

I certify that the attached is a true and correct copy of the Articles of Incorporation of BAYBERRY ESTATES HOMEOWNERS'S ASSOCIATION, INC., a corporation organized under the Laws of the State of Florida, filed on November 12, 1986, as shown by the records of this office.

The document number of this corporation is N17734.

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
13th day of November, 1986.



CR2E022 (10-85)

George Firestone
Secretary of State

EXHIBIT C

ARTICLES OF INCORPORATION FOR THE
BAYBERRY ESTATES HOMEOWNER'S ASSOCIATION, INC.

ARTICLES OF INCORPORATION

OF

BAYBERRY ESTATES HOMEOWNER'S ASSOCIATION, INC.

(c)

In compliance with the requirements of Florida Statutes § 617, the undersigned, all of whom are residents of the State of Florida and all of whom are of full age, have this day voluntarily associated themselves together for the purpose of forming a corporation not for profit and do hereby certify:

FILED
1968 NOV 12 PM 2
SECRETARY
TALLAHASSEE

ARTICLE I

The name of the corporation is BAYBERRY ESTATES HOMEOWNER'S ASSOCIATION, INC., hereafter called the "Association".

ARTICLE II

The principal office of the Association is located at 1637 E. Vine Street, Kissimmee, Fl. 32743

ARTICLE III

Roger Hendren, whose address is 1637 E. Vine Street, Kissimmee, Fl. 32743, is hereby appointed the initial registered agent of this Association.

ARTICLE IV

PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of the residence Lots and Common Area within that certain tract of property described as:

Lots 1-26 inclusive, lots 61-106 inclusive and lots 121-136 inclusive and Tracts A, B, C, D, E, F, and G BAYBERRY ESTATES, UNIT 1, as recorded in Plat Book 33 Page 23 of the Public Records of Brevard County, Florida; and
Lots 27-60 inclusive and lots 107-120 inclusive and Tract D, BAYBERRY ESTATES, UNIT 2, as recorded in Plat Book 33 Page 24 of the Public Records of Brevard County, Florida

and to promote the health, safety and welfare of the residents within the above described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions, hereinafter called the "Declaration", applicable to the property and recorded or to be recorded in the Office of Public Records of Brevard County, Florida and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay off expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, and with the assent of two-thirds (2/3) of each class of members mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of each class of members, agreeing to such dedication, sale or transfer;

(f) participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3) of each class of memb

(g) have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the State of Florida by law may now or hereafter have or exercise.

ARTICLE V

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

ARTICLE VI

VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant (as defined in the Declaration), and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding the Class A membership equal the total votes outstanding in the Class B membership;

or

(b) on December 31, 1995

ARTICLE VII

BOARD OF DIRECTORS

The affairs of this Association shall be managed by a Board of three Directors, who need not be members of the Association. The number of directors may be changed by amendment of the By-Laws of the Association. The

names and addresses of the persons who are to act in the capacity of directors until the selection of their successors are:

NAME AND ADDRESS

Roger Hendren, 1549 Shadow Oaks Rd., Kissimmee, Fl. 32743

James M. Cowart, 1850 Shadow Oaks Rd., Kissimmee, Fl. 32743

Virginia A. Gardner, 2881 Frontier Drive, Kissimmee, Fl. 32743

At the first annual meeting the members shall elect three (3) Directors for a term of one (1) year. At each annual meeting thereafter the members shall elect three (3) Directors for a term of one (1) year.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

The officers of this Association shall be a president and vice president, who shall at all times be members of the Board of Directors, a secretary and a treasurer, and such other officers as the Board may from time to time by resolution create. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve. The following named persons shall serve as officers until the first election of officers is conducted by the Board of Directors:

President:

Roger Hendren, 1549 Shadow Oaks Rd., Kissimmee, Fl. 32743

Vice President:

James M. Cowart, 1850 Shadow Oaks Rd., Kissimmee, Fl. 32743

Secretary:

Virginia A. Gardner, 2881 Frontier Drive, Kissimmee, Fl. 32743

Treasurer:

Virginia A. Gardner, 2881 Frontier Drive, Kissimmee, Fl. 32743

ARTICLE IX

DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of each class of members. Upon dissolution of the Association, other than incident to a merger or

consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes. This procedure shall be subject to court approval of the dissolution pursuant to Florida Statutes 617.05.

ARTICLE X

DURATION

The corporation shall exist perpetually.

ARTICLE XI

BY-LAWS

The By-Laws shall be adopted by the Directors at their first meeting. The By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is Class B membership. In the case of any conflict between the Articles of Incorporation and the By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XII

FHA/VA APPROVAL

As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, mergers and consolidations, mortgaging of Common Area, dedication of Common Area, dissolution and amendment of these Articles.

ARTICLE XIII

The names and residential addresses of the subscribers to these Articles of Incorporation are:

Roger Hendren, 1549 Shadow Oaks Rd., Kissimmee, Fl. 3273

James M. Cowart, 1850 Shadow Oaks Rd., Kissimmee, Fl. 2743

Virginia A. Gardner, 2881 Frontier Drive, Kissimmee, 32743

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLE XIV

MEETINGS OF MEMBERS: QUORUM REQUIREMENTS

The presence at any meeting of members entitled to cast, or of proxies entitled to cast, one-third (1/3) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in these Articles of Incorporation, the Declaration, or the Bylaws.

ARTICLE XV

AMENDMENTS

Amendment of these Articles shall require the assent of seventy-five (75%) of the entire membership. Amendment of these Articles may be proposed by the Board of Directors and shall be voted on at a special meeting of the Membership duly called for that purpose, or at an annual meeting of the Membership.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the Laws of the State of Florida, we, the undersigned, constituting the incorporators of this Association, have executed these Articles of Incorporation this 4th day of November, 1986.

*Require
75% approval
136 amendments*

Roger Hendren
James M. Cowart
Virginia A. Gardner

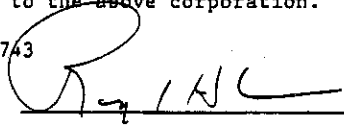
STATE OF FLORIDA
COUNTY OF OSCEOLA

Before me, a Notary Public, personally appeared Roger Hendren, James M. Cowart and Virginia A. Gardner, to me known to be the persons described as Incorporators and who executed the foregoing Articles of Incorporation, and acknowledged before me that they subscribed to these Articles of Incorporation on the 4th day of November, 1986.

Debra P. Lucas

My Commission Expires: June 18, 1988

Acceptance of designation as Registered Agent: Roger Hendren does hereby accept the foregoing designation as registered agent for the corporation, for service of process as to the above corporation.
1637 E. Vine Street, Kissimmee, Fl. 32743



1030 NOV 12 PM 2:50
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Amendment, filed on May 25, 1999, to Articles of Incorporation for BAYBERRY ESTATES HOMEOWNERS'S ASSOCIATION, INC., a Florida corporation, as shown by the records of this office.

The document number of this corporation is N17734.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Twenty-fifth day of May, 1999



CR2EO22 (1-99)

Katherine Harris

Katherine Harris
Secretary of State

FILED

ARTICLES OF AMENDMENT

99 MAY 25 PM 2: 44

TO

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF INCORPORATION

OF

BAYBERRY ESTATES HOMEOWNER'S ASSOCIATION, INC.

THE UNDERSIGNED, Hugh Bowie, as President of Bayberry Estates Homeowner's Association, Inc., a Florida not-for-profit corporation (the "Association"), for and on behalf of the Association, hereby execute these Articles of Amendment to the Articles of Incorporation of the Association:

ARTICLE FIRST: The name of the Corporation is BAYBERRY ESTATES HOMEOWNERS ASSOCIATION, INC.

ARTICLE SECOND: ARTICLE IV of the current Articles of Incorporation is amended and restate in its entirety, as follows:

ARTICLE IV

PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of the residence Lots and common Areas within that certain tract of property described as:

Lots 1-26 inclusive, lots 61-106 inclusive and lots 121-136 inclusive and Tracts A, B, C D, E, F and G, BAYBERRY ESTATES UNIT 1, as recorded in Plat Book 33 Page 23 of the Public Records of Brevard County, Florida; and

Lots 27-60 inclusive and lots 107-120 inclusive and Tract D, BAYBERRY ESTATES UNIT 2, as recorded in Plat Book 33 Page 24 of the Public Records of Brevard County, Florida.

and to promote the health, safety and welfare of the residents within the above described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions, hereinafter called the "Declaration", applicable to the property and recorded or to be recorded in the Office of the Public Records of Brevard County, Florida as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay off expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association; provided, however, no such sale or disposition of any real property by the Association shall be effective unless an instrument has been signed by two-thirds (2/3) of the members of the Association agreeing to such sale or other disposition;

(d) borrow money, and with the assent of two-thirds (2/3) of the members of the Association, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of the members of the Association agreeing to such dedication, sale or transfer;

(f) participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds of the members of the Association.

(g) have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the State of Florida by law may now or hereafter have or exercise.

ARTICLE THIRD: The Amendment to the Articles of Incorporation of the Association set forth above was duly adopted by the assent of seventy-five percent of the members of the Association, as required by Article XV of the Articles of Incorporation of the Association on May 20, 1999.

ARTICLE FOURTH: The effective date of these Articles of Amendment shall be upon the filing thereof with the Florida Department of State.

IN WITNESS WHEREOF, the undersigned, has executed these Articles of Amendment as of the 20 day of May, 1999.

BAYBERRY ESTATES HOMEOWNER'S ASSOCIATION, INC.

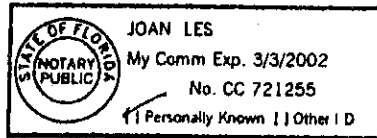
By: Hugh Bowie
Hugh Bowie, President

Attest: Charlotte Perry
Charlotte Perry, Secretary

STATE OF FLORIDA)
) S.S.:
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me this 20 day of May 1999, by Hugh Brown as President of Bayberry Estates Homeowner's Association, Inc., a Florida non-for-profit corporation, who [] is personally known to me or [] produced _____ as identification.

Joan Les
Notary Public
My Commission Expires: 3.3.2002



State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Amendment, filed on April 15, 2003, to Articles of Incorporation for BAYBERRY ESTATES HOMEOWNERS'S ASSOCIATION, INC., a Florida corporation, as shown by the records of this office.

The document number of this corporation is N17734.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Twenty-second day of April, 2003



CR2EO22 (2-03)

Glenda E. Hood
Glenda E. Hood
Secretary of State

SECOND ARTICLES OF AMENDMENT

TO

ARTICLES OF INCORPORATION

OF

BAYBERRY ESTATES HOMEOWNER'S ASSOCIATION, INC.

Document Number of Corporation: N17734

FILED
03 APR 15 AM 9:48
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

THE UNDERSIGNED, Patricia A. Piekos, as President of Bayberry Estates Homeowner's Association, Inc., a Florida not-for-profit corporation (the "Association"), for and on behalf of the Association, hereby execute these Second Articles of Amendment to the Articles of Incorporation of the Association:

ARTICLE FIRST: ARTICLE II of the current Articles of Incorporation is amended and restated in its entirety, as follows:

ARTICLE II

The principal office of the Association is located at 3919 Bayberry Drive, Melbourne, FL 32901.

ARTICLE SECOND: ARTICLE III of the current Articles of Incorporation is amended and restated in its entirety, as follows:

ARTICLE III

The currently serving President of the Association shall serve as the Registered Agent of this Association.

ARTICLE THIRD: ARTICLE VII of the current Articles of Incorporation is amended and restated in its entirety, as follows:

ARTICLE VII

BOARD OF DIRECTORS

The affairs of this Association shall be managed by a Board of Directors, who must be members of the Association. The number of directors may be changed by amendment of the By-Laws of the Association.

At the first annual meeting the members shall elect five (5) Directors for a term of one (1) year. At each annual meeting

thereafter the members shall elect five (5) Directors for a term of one (1) year.

ARTICLE FOURTH: ARTICLE VIII of the current Articles of Incorporation is amended and restated in its entirety, as follows:

ARTICLE VIII

OFFICERS AND THEIR DUTIES

The officers of this Association shall be a president and vice president, who shall at all times be members of the Board of Directors, a secretary and a treasurer, and such other officers as the Board may from time to time by resolution create. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

ARTICLE FIFTH: ARTICLE IX of the current Articles of Incorporation is amended and restated in its entirety, as follows:

ARTICLE IX

DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of the members. Upon dissolution of the Association, other than incident to a member or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes. This procedure is subject to court approval of the dissolution pursuant to Florida Statutes 617.05.

ARTICLE SIXTH: ARTICLE XII, FHA/VA APPROVAL, is RESCINDED. Bayberry Estates has no Class B membership.

ARTICLE SEVENTH: ARTICLE XIII is RESCINDED.

ARTICLE EIGHTH: ARTICLE XIV of the current Articles of Incorporation is amended and restated in its entirety, as follows:

ARTICLE XIV

MEETINGS OF MEMBERS; QUORUM REQUIREMENTS

The presence at any meeting of members entitled to cast, or of proxies entitled to cast, one-third (1/3) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in these Articles of Incorporation, the Declaration, or the By-Laws.

ARTICLE NINTH: The Second Articles of Amendment to the Articles of Incorporation of the Association set forth above was duly adopted by the assent of seventy-five percent (75%) of the members of the Association, as required by Article XV of the Articles of Incorporation of the Association on MARCH 12, 2003.

ARTICLE TENTH: The effective date of these Second Articles of Amendment shall be upon the filing thereof with the Florida Department of State.

IN WITNESS WHEREOF, the undersigned has executed these Second Articles of Amendment as of the 5th day of APRIL, 2003.

BAYBERRY ESTATES HOMEOWNER'S ASSOCIATION, INC.

By: Patricia A. Piekos
Patricia A. Piekos, President

Attest: Charlotte A. Perry
Charlotte A. Perry, Secretary

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this
5 day of APRIL, 2003, by PAT PROS
as President of Bayberry Estates Homeowner's Association, Inc., a
Florida not-for-profit corporation, who [] is personally known
to me or [] produced _____
as identification.

Jean Watson
Notary Public
My Commission Expires: May 11, 2006

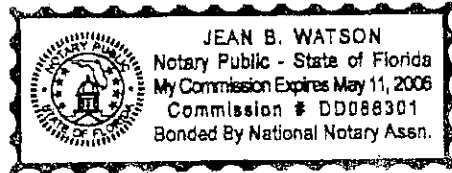


EXHIBIT D

BY-LAWS FOR THE BAYBERRY ESTATES HOMEOWNER'S ASSOCIATION, INC.



CFN 2003105405

OR Book/Page: 4876 / 2557

EXHIBIT D

BY-LAWS FOR THE BAYBERRY ESTATES HOMEOWNER'S ASSOCIATION, INC.



CFN 2003105405
OR Book/Page: 4876 / 2558

BY-LAWS
OF
BAYBERRY ESTATES HOMEOWNER'S ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

The name of the corporation is Bayberry Estates Homeowner's Association, Inc., hereinafter referred to as the "Association". The principal office of the corporation shall be located at ~~Bayberry Drive, Melbourne, Florida~~, but meetings of members and directors may be held at such places within the State of Florida, County of Brevard, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Bayberry Estates Homeowner's Association, Inc., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. ~~RESCINDED~~



Section 7. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of Public Records of Brevard County, Florida.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

ARTICLE III

MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 7:00 o'clock, P.M. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the membership. ~~Such meeting shall be held within 30 days.~~

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member of the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-third (1/3) of the votes of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. ~~All proxies shall be in~~

writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

ARTICLE IV

BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of ~~Five (5)~~ Directors, who ~~must~~ be members of the Association.

Section 2. Term of Office. At the first annual meeting the members shall elect ~~Five~~ directors for a term of one year, 0 directors for a term of two years and 0 directors for a term of three years; and at each annual meeting thereafter the members shall elect ~~Five~~ directors for a term of one year.

Section 3. Removal. Any director may be removed from the Board, ~~with or without cause~~, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

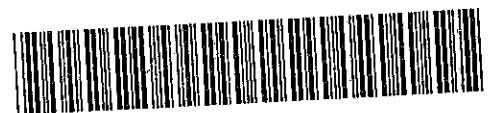
Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a ~~directors~~ meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment



shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations ~~must~~ be made from among members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI

MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting right and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment



levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three(3) consecutive regular meetings of the Board of Directors; and

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

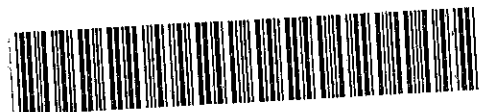
(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;



(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Area to be maintained.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

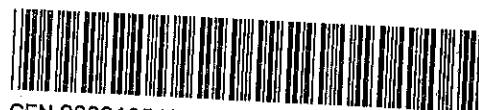
Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices



except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds, and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

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

Treasurer

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE IX

COMMITTEES

The Board of Directors shall appoint an Architectural Review Committee, as provided in the Declaration, and a Nominating



Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE X

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XI

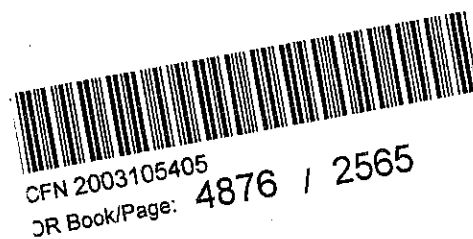
ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the highest rate allowable by law, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of the assessment. No Owner may waiver or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

ARTICLE XII

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: Bayberry Estates Homeowner's Association, Inc., Corporation Not For Profit.



ARTICLE XIII

AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIV

MISCELLANEOUS

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



CFN 2003105405

OR Book/Page: 4876 / 2566

ARTICLE XIV

MISCELLANEOUS

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

IN WITNESS WHEREOF, we, being all of the directors of the Bayberry Estates Homeowner's Association, Inc.

have hereunto set our hands this 4th day of November, 1986.

Roger Hendren

James M. Cowart

Virginia A. Gardner

Roger Hendren
James M. Cowart
Virginia A. Gardner

(Add appropriate acknowledgment)

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting secretary of the Bayberry Estates Homeowner's Association, Inc. a Florida (State)

corporation, and,

THAT the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 4th day of November, 1986.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 4th day of November, 1986.

Virginia A. Gardner
Secretary

EXHIBIT E

BAYBERRY ESTATES ASSOCIATION BUDGET

BAYBERRY HOMEOWNER'S ASSOCIATION, INC. BUDGET

Water & Electrical (bathhouse, pool & tennis court)	\$ 3,000.00
Bath House Cleaning	300.00
Pool Service	3,000.00
Street Lights	1,560.00
Insurance	1,800.00
Lawn Maintenance	21,080.00
Real Estate Taxes	400.00
Accounting	500.00
Legal	500.00
Miscellaneous Reserve	<u>500.00</u>
Total	\$32,640.00

\$32,640.00 annually divided by 136 units = \$240.00 per year per unit

Notes:

1. Each dwelling owner shall pay an annual assessment of \$240.00 which shall be paid in semi-annual installments of \$120.00 on January 1 and July 1 of each year.
2. This assessment is necessary because the Association is the entity that is responsible for performing certain maintenance functions on common areas. This budget represents an estimation of costs of fulfilling the Association's duties.
3. Insurance - the reference in the budget to insurance refers to insurance which the Master Association must obtain for public liability and property insurance for the common areas. Each owner is responsible for the purchase of insurance for his own home and personal property. Each dwelling unit owner should consult professionals to advise him of his responsibilities and insurance needs.
4. Taxes - the reference to taxes in the above budget applies to the real property taxes which the Association will be assessed on the common areas only. Each dwelling unit owner will be responsible for real property taxes on his/her home.

BAYBERRY ESTATES HOMEOWNERS
ASSOCIATION, INC.

1988 BUDGET

<u>EXPENSES</u>	<u>ANNUAL COSTS</u>
Utilities	\$ 3,960.00
Insurance	2,040.00
Licenses	180.00
Bank Charges	120.00
Lawn Care	8,400.00
Swimming Pool Maint.	3,960.00
Cleaning	472.00
Accounting	500.00
Legal Fees	1,000.00
Real Estate Taxes	400.00
Miscellaneous Reserves	<u>1,000.00</u>

Total Annual Budget \$ 22,032.00
+ 136 lots

Annual Fee Per Lot \$ 162.00

Monthly Fee Per Lot \$ 13.50

DAYBERRY ESTATES HOMEOWNER'S ASSOCIATION, INC.

1989 Budget

RECEIPTS:

136 lots at \$13.50 per month per lot = \$22,032.00

Total Receipts..... \$22,032.00

EXPENSES:

Utilities \$ 3,960.00

Insurance 2,040.00

Licenses, State and Local 180.00

Bank Charges 120.00

Lawn Maintenance 8,400.00

Swimming Pool Maintenance,
Repairs & Supplies 3,960.00

Cleaning Bathhouse 472.00

Accounting Fees 500.00

Legal Fees (presently being
absorbed by the Developer in
the form of delinquency letters,
filing of liens, preparation of
documents) 1,000.00

Real Estate Taxes for
Common Area 400.00

Miscellaneous 1,000.00

Total Expenses..... \$22,032.00

EXHIBIT F
DEED FOR COMMON AREA

This Warranty Deed Made and executed the 4th day of November A. D. 1986 by

TOMPKINS INVESTMENT GROUP INCORPORATED
a corporation existing under the laws of Florida, and having its principal place of
business at 1637 E. Vine St., Kissimmee, Fl. 32743
hereinafter called the grantor, to BAYBERRY ESTATES HOMEOWNER'S ASSOCIATION, INC.

whose postoffice address is 1637 E. Vine Street, Kissimmee, Fl. 32743

hereinafter called the grantee:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth: That the grantor, for and in consideration of the sum of \$ 10.00 and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the grantee, all that certain land situate in Brevard County, Florida, viz:

Tracts A, B, C, D, E, F and G, BAYBERRY ESTATES, UNIT ONE, as recorded in Plat Book 33 at Page 23 of the Public Records of Brevard County, Florida; and
Tract D, BAYBERRY ESTATES, UNIT TWO, as recorded in Plat Book 33 at Page 24 of the Public Records of Brevard County, Florida

5085
50
RECORDED
NOV 11 1986
COUNTY CLERK
BREVARD COUNTY
FLORIDA

Together with all the tenements, hereditaments and appurtenances thereto belonging or in any-wise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 1985. Subject to easements and restrictions of record, if any, however, reference thereto shall not serve to reimpose same.

(CORPORATE SEAL)

In Witness Whereof the grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

ATTEST: Sandra P. Lucas
Sandra P. Lucas Secretary

TOMPKINS INVESTMENT GROUP INCORPORATED

Signed, sealed and delivered in the presence of:

Theresa A. Anderson
Ronna M. Morrison

By: Thomas N. Tompkins
Thomas N. Tompkins President

STATE OF Florida
COUNTY OF Osceola

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared THOMAS N. TOMPKINS and SANDRA P. LUCAS

well known to me to be the President and Secretary respectively of the corporation named as grantor in the foregoing deed, and that they severally acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State last aforesaid this 4th day of November, A. D. 1986

Return to:

This Instrument prepared by: Marcia K. Tompkins, Attorney
1637 E. Vine St.
Kissimmee, Fl. 32743
my COMMISSION EXPIRES 11/27/87

2749

OFF. REC.

1980

PAGE

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EXHIBIT G

SAMPLE DEED OF CONVEYANCE TO BUYER

This Warranty Deed Made and executed the 31st day of November A. D. 1986 by

TOMPKINS INVESTMENT GROUP INCORPORATED

a corporation existing under the laws of Florida, and having its principal place of business at 1637 E. Vine St., Kissimmee, Fl. 32743 hereinafter called the grantor, to John P. Doe and Mary P. Doe

whose postoffice address is Any street, any city and state

hereinafter called the grantee:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth: That the grantor, for and in consideration of the sum of \$ 10.00 and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the grantee, all that certain land situate in County, Florida, viz:

Lot #00, BAYBERRY ESTATES, UNIT ONE, as recorded in Plat Book 33 at Page 23 of the Public Records of Brevard County, Florida

Together with all the tenements, hereditaments and appurtenances thereto belonging or in any-wise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 1985. Subject to easements and restrictions of record, if any, however, reference thereto shall not serve to reimpose same.

(CORPORATE SEAL)

In Witness Whereof the grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

ATTEST:.....
Secretary

..... TOMPKINS INVESTMENT GROUP INCORPORATED

Signed, sealed and delivered in the presence of:

By.....
President

STATE OF Florida }
COUNTY OF Brevard }

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared

well known to me to be the President and respectively of the corporation named as grantor in the foregoing deed, and that they severally acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State last aforesaid this 31st day of November, A. D. 1986

This Instrument prepared by: Marcia K. Tompkins, Attorney
Address 1637 E. Vine St.
Kissimmee, Fl. 32743

EXHIBIT H
MASTER DEVELOPMENT PLAN

