

Doc# asoi304

Prepared by and after Bkl 170 recording return to:
Jennifer Bales Drake, Esq.
Becker & Poliakoff, P.A.
3111 Stirling Road
Ft. Lauderdale, FL 33312-6525

DECLARATION OF COVENANTS AND RESTRICTIONS
OF
SEASIDE KEY WEST RESIDENCES

THIS DECLARATION is made this AH day of Feb, 2005 by KEY WEST SEASIDE. LLC, a Florida limited liability company (hereinafter called the "Declarant").

WITNESS ETH:

WHEREAS, the Declarant is the owner of all of the land situate, lying and being in Monroe County, Florida, more particularly described in Exhibit "A" attached hereto and made a part hereof and the Declarant desires to create thereon a planned community with recreational facilities (hereinafter referred to as "SeaSide Key West Residences"), open spaces and other community facilities for the benefit of said community; and

WHEREAS, the Declarant desires to provide for the preservation and enhancement of the property values, amenities and opportunities in said community and for the maintenance of the properties and improvements thereon, and to this end desires to subject the said described land to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof. and

WHEREAS, the Declarant has deemed it desirable for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of owning, maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions hereof and collecting and disbursing the assessments and charges hereinafter created, and promoting the recreation, health, safety and welfare of the residents.

NOW, THEREFORE, the Declarant declares that the real property above described is and shall be held, transferred. sold, conveyed and occupied subject to the covenants, restrictions. easements, charges and liens (sometimes referred to as "Covenants and Restrictions") hereinafter set forth.

ARTICLE 1.
DEFINITIONS

Doc# tsø13N

Bkå 2ø91 17tø

Unless otherwise expressly provided, the following words and phrases when used herein shall have the meanings hereinafter specified:

Section 1.1. "Architectural Committee" shall mean the committee created pursuant to Article VII hereof.

Section 1.2. "Articles" shall mean the Articles of Incorporation of SeaSide Key West Residences Homeowners Association, Inc., which have been filed in the office of the Secretary of State of Florida, a true copy of which is attached hereto, marked Exhibit "C" and incorporated herein by reference, as such Articles may be amended from time to time.

Section 1.3. "Association" shall mean SeaSide Key West Residences Homeowners Association, Inc., a Florida not-for-profit corporation, and its successors and assigns.

Section 1.4. "Assessment" shall mean any of the types of assessments defined below in this Section.

(a) "Common Assessment" shall mean a share of the funds that are required for the payment of Common Expenses which are assessed against an Owner.

(b) "Special Assessments" shall mean any assessments levied by the Board against Owners in addition to the Common Assessment either as a result of: (i) extraordinary items of expense; (ii) defraying, in whole or in part, the cost of construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas; or (iii) such other reason or basis determined by the Board which is not consistent with this Declaration, the Articles or By-laws.

Section 1.5. "Board" shall mean the Board of Directors of the Association elected in accordance with the By-Laws of the Association.

Section 1.6. "Building" shall mean any building containing one or more Townhomes located within the Property. The Declarant specifically reserves unto itself the right to adjust the property or boundary lines of any or all Buildings or reduce the number of Buildings as depicted on the Site Plan attached hereto as Exhibit "B", as same may be amended from time to time. Any such adjustment will be recorded by the Declarant in the Public Records of Monroe County, Florida, as an amendment to the Declaration, and the joinder of any other person, including Owners and mortgagees, will not be required or necessary.

Section 1.7. "By-Laws" shall mean the By-Laws of the Association, which have been or shall be adopted by the Board substantially in the form of Exhibit "D" attached hereto and incorporated herein by this reference, as such By-Laws may be amended from time to time.

Section 1.8. "Common Expenses" shall mean the actual and estimated costs of ownership, maintenance, management, operation, repair and replacement of the Common Properties and portions of the Buildings for which the Association is responsible as set forth in this Declaration, including, without limitation unpaid Special Assessments. Reconstruction

Doc' 1301304

Assessments and Capital Improvement Assessments and including those costs not paid by the Owner responsible for such payments; the costs of any and all commonly metered utilities, cable or master television charges, any current or future telecommunication charges, and other commonly metered charges for the Common Properties; costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees and costs of insurance bonds covering those personnel; the costs of all utilities, gardening and other services benefiting the Common Property and all recreational facilities thereon; the costs of fire, casualty and liability insurance, flood insurance, workmen's compensation insurance, and other insurance covering those portions of the Buildings for which the Association is responsible for insuring, and the Common Properties; guard service; the costs of bonding of the members of the Board and any management body; taxes paid by the Association, including real property taxes for the Common Properties; amounts paid by the Association for the discharge of any lien or encumbrance levied against the Common Properties, or portions thereof; assessments due the Master Association; the cost of maintenance, repair, replacement and landscaping of the median of Seaside Drive, to the extent not maintained by the Master Association; the costs of any other item or items so designated by, or in accordance with, other expenses incurred by the Association for the benefit of the Owners; reserves for capital improvements and deferred maintenance of the Common Properties; costs incurred by the Association in performing its obligations to maintain, repair and replace portions of the Buildings; and reserves for deferred maintenance of the Buildings, if any.

Section 1.9. "Common Properties" shall mean those portions of the Property not included in the Lots more particularly described in the survey sketches attached hereto as Exhibit "B". The Declarant specifically reserves unto itself the right to adjust the property or boundary lines of the Common Properties at any time; provided, however, that such adjustment shall only serve to increase or keep constant the cumulative area of the Common Properties and not to decrease it. The foregoing notwithstanding, construction and development activities may result in modification of the actual size of the Common Properties, increasing or decreasing same. Any such adjustment in the boundary lines of the Common Properties will be recorded by Declarant in the Public Records of Monroe County, Florida, as an amendment to this Declaration, and the joinder of any other person, including Owners or mortgagees, will not be required or necessary.

Section 1.10. "Conservation Easement" shall mean that certain Deed of Conservation Easement between Declarant and the South Florida Water Management District ("SFWMD") dated March 20, 2003, which easement was recorded April 15, 2003 in Official Records Book 1876, page 1957 of the Public Records of Monroe County, Florida.

Section 1.11. "Declaration" shall mean this instrument as it may be amended from time to time, together with any supplemental declarations.

Section 1.12. "Declarant" shall mean and refer to Key West SeaSide, LLC, a Florida limited liability company, and any successor or assign thereof, which acquires any portion of SeaSide Key West Residences from the Declarant for the purpose of development.

Section 1.13. "Declarant's Permittees" shall mean the Declarant's partners, employees, agents, independent contractors (including both general contractors and sub-contractors), suppliers, visitors, licensees and invitees.

.•8903554

Section 1.14. "Development Agreement" shall mean that certain agreement between Declarant and the City of Key West, which agreement was recorded in the public records of Monroe County in Official Records Book 1504, at Page 572.

Section 1.15. "Improvement" shall mean all structures or artificially created conditions and appurtenances thereto of every type and kind located upon the Properties which may, but not necessarily, include buildings, lighting, swimming pool, pool equipment building, walkways, sprinkler pipes, road, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, flags, exterior air conditioning, heating, water-softener fixtures or equipment and surface water management system.

Section 1.16. "Mortgage" shall mean a recorded mortgage upon a Townhome held by a Mortgagee.

Section 1.17. "Mortgagee" shall mean (i) any bank, savings bank, savings and loan association, insurance company, mortgage company, real estate investment trust, agency of the United States government, or a lender generally recognized in the community as a lender if it holds a mortgage on one or more Townhomes; (ii) Declarant; (iii) any "Secondary Mortgage Association," government national mortgage association, federal housing administration, federal home loan mortgage corporation and veterans administration, and any other secondary mortgage market institution as the Association shall hereafter approve in writing; (iv) any assignee of a loan made by one of the foregoing to finance the purchase of a Townhome, and (v) any and all investors or lenders (hereinafter sometimes also referred to as "Lenders") which have loaned money to Declarant to acquire or construct improvements on the Property and who have a mortgage lien on the Property to secure such loans.

Section 1.18. "Limited Common Properties" shall mean any portions of the real property that are declared by this Declaration to be for the use of fewer than all the Owners, and shall include, but not be limited to, exterior walls, roofs, impact resistant windows, exterior doors, balconies, rooftop terraces, mailboxes and driveways.

Section 1.19. "Lot" shall mean and refer to those residential dwelling parcels contained within the real property described on Exhibit "A" attached hereto and made a part hereof. A Lot may be either improved or unimproved.

Section 1.20. "Management Company" or "Manager" shall mean the person, firm or corporation which may be appointed by the Association hereunder as its agent and delegated certain duties, powers or functions of the Association. The Management Company may be an affiliate of the Declarant.

Section 1.21. "Master Association" shall mean and refer to a master property owners association that Declarant hereby reserves the right to form. The Master Association, if formed by Declarant, shall be the entity responsible for maintenance and operation of Seaside Drive and other roadways and certain common areas adjacent to and near the Property. If the Master Association is created, then each Lot shall be subject to the terms and conditions recited in the Master Association documents, and each and every Owner shall be deemed to have consented to the terms and provisions of such Master Association documents.

Doc# 1501304
Bk# 2091 Pg# 1712

Section 1.22. "Member" shall mean and refer to all those Owners who are members of the Association as provided in Section 3.1 hereof.

Section 1.23. "Notice and Hearing" shall mean written notice and a public hearing before a tribunal appointed by the Board, at which the Owner concerned shall have an opportunity to be heard in or by counsel at Owner's expense, in the manner further provided in the ByLaws.

Section I .24. "Owner" shall mean and refer to the person or persons or other legal entity or entities holding fee simple interest of record to any Lot and the Townhome thereon, including Declarant and sellers under the executory contracts of sale, but excluding those having such interests merely as security for the performance of an obligation and excluding purchasers under executory contracts of sale of a Townhome. For purposes of the Article entitled "Use Restrictions" only, unless the context otherwise requires, Owner shall also include the family, invitees, guests, licensees and lessees and sublessees of any Owner, and any other permitted occupants of a Townhome.

Section 1.25. "Person" shall mean a natural individual or any other entity with the legal right to hold title to real property.

Section I .26. "Property" or "Properties" shall mean the property described on Exhibit "A" attached hereto and made a part hereof.

Section I .27. "Record", "Recorded", "Filed" and "Recordation" shall mean, with respect to any document, the recordation of such document in the office of the Clerk of the Court of Monroe County, Florida.

Section 1.28. "Restricted Ownership Townhome" means each Townhome described in Article XV hereto.

Section 1.29. "Retail Property" shall mean the tract of land depicted on Exhibit "B" as the Retail Property, but which is not a of the Properties.

Section 1.30. "Site Plan" shall mean the Site Plan of the Proccupancyoperty included herein as Exhibit "B" and filed with and approved by the City of Key West, Florida, as same may be amended from time to time.

Section 1.31. "Townhome" or "Unit" shall mean and refer to a residential dwelling now or hereafter constructed on a Lot within the Property, as further described herein.

Section 1.32. "Voting Power" shall mean the total number of votes eligible to be cast.

ARTICLE 11.

OWNER'S PROPERTY RIGHTS/EASEMENTS

Section 2.1. OWNER'S EASEMENTS OF ENJOYMENT. Every Owner shall have a non-exclusive, common right and easement of ingress and egress over, enjoyment in, and use of Common Properties, which right and easement shall be appurtenant to and shall pass with

title to the Owner's Townhome, as the case may be, subject to the following conditions and limitations:

1501304

BkN

1713

(a) The right of the Association to reasonably limit the number and nature of guests and invitees of Owners or of an Owner's lessees using the Common Properties.

(b) The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Properties including, but not limited to, the right and obligation of the Association to enforce all parking restrictions within the Common Properties.

(c) The right of the Association to establish uniform rules and regulations pertaining to the portions of each Townhome visible from any portion of the Common Properties for the purpose of enhancing the aesthetic uniformity of the Properties, including, but not limited to, restriction respecting the planting of trees, flowers, TV antennae, and satellite dishes and other telecommunications equipment, to the extent permitted by law, hedges and other plants, and the temporary or permanent placement of personalty including swings, hammocks, toys or other recreational devices.

(d) The right of the Association in accordance with its Articles, By-Laws and this Declaration, with the vote or written assent of two-thirds (2/3) of each class of Members, to borrow money for the purpose of improving the Common Properties and facilities, and, in aid thereof, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of such mortgagee shall be subordinated to the use right of the Owners. The Association may not borrow unless the Class B Member, if any, agrees to such obligation, and while Declarant owns any Townhome for sale, no approval of the Class A membership shall be required.

(e) The right of the Association to suspend the right to use recreational facilities upon the Common Properties by an Owner for any period during which any assessment against the Townhome remaining unpaid and delinquent; and for a period not to exceed thirty (30) days for any single infraction of the published Rules and Regulations of the Association, provided that any suspension of such right to use the Common Properties shall be made only by the Board of Directors of the Association, after Notice and Hearing.

(D) The right of the Association to dedicate, release, alienate or transfer all or any part of the Common Properties 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, release, alienation or transfer shall be effective, unless Members entitled to cast two-thirds (2/3) of the voting power of the Owner Members, and the Declarant Member, if any, agree to such dedication, release, alienation or transfer. While Declarant owns any Townhome for sale, approval of Owner Members shall not be required.

(g) The right of the Declarant and Declarant's Permittees to the non-exclusive use of the Common Properties and the facilities thereof, without charge, for sales, display, access, ingress, egress, construction and exhibit purposes.

(h) The right of the Association (by action of the Board) to reconstruct, replace or refinish any Improvement or portion thereof upon the Common Properties, in accordance with the original design, finish or standard of construction of such Improvement.

Doe" 1501304

2091PgN 1714

(i) The right of the Association to replace destroyed trees or other vegetation and plant trees, shrubs and ground cover upon any portion of the Common Properties.

(j) The easements provided elsewhere in this Article II and in this Declaration.

Section 2.2. DELEGATION OF USE. Any Owner may delegate, in accordance with the By-Laws, the right of enjoyment to the Common Properties and facilities to the members of the Owner's immediate family, or to the tenants who reside in the Townhome, subject to all rules and regulations presently in effect and any which may become effective in the future, and further subject to reasonable regulation by the Board.

Section 2.3. PARKING. Parking space(s), within the Common Properties (exclusive of driveways within the Lot), shall be for the exclusive use of temporary guests and invitees of Owners. Such space(s) will be unassigned. Use of such space(s) by an Owner will not be permitted. The Management Company or Manager, as the case may be, shall issue parking permits to Owners, in good standing. Any automobile parked overnight as permitted hereunder shall conspicuously display a current and valid parking permit. Boats and trailers shall not be permitted to be parked anywhere on the properties except in a closed garage. Subject to the foregoing, the Association, through its officers, committees and agents, shall be entitled to establish regulations concerning parking on any portion of the Common Properties and may make provision for the involuntary removal of any vehicle violating them. The Association shall in no way interfere with the parking requirements of Declarant or Declarant's Permittees with respect to unassigned parking spaces.

Section 2.4. EASEMENTS FOR PUBLIC SERVICE USE. In addition to the foregoing easements over the Properties, there shall be, and Declarant hereby reserves and covenants for itself and all future Owners, all existing utility easements and easements to be created for cable TV, municipal and private utility companies and other governmental public services, including, but not limited to, the right of the police, fire, health, sanitation and other public service personnel to enter upon (with or without vehicles or animals) any part of the Common Properties or Townhomes for the purpose of carrying out their duties and the right of all utility companies to install, maintain, replace or supplement their equipment and facilities. This reservation grants to the Declarant the right to construct, install and repair such utilities, cable television and drainage facilities within any part of the Common Properties. This Section creates a blanket easement for utilities as installed. Any encroachment upon the Common Properties shall not impair the ability of the easement holder to maintain, replace or supplement utility, cable television or drainage service to the Property.

Section 2.5. ACCESS EASEMENT. Declarant hereby reserves perpetual nonexclusive easements of ingress and egress over and across any and all streets (as well as alcoves, cul-de-

sacs and other private, paved areas abutting or serving the same) within or upon SeaSide Key West Residences which are necessary or convenient for enabling Declarant to carry on the construction and sales on the Property, which easements shall be for the use of Declarant, Declarant's Permittees, Declarant's successors and assigns, Owners, and the respective lessees, employee.s, agents, invitees and licensees of Declarant and Owners.

Section 2.6. CONSERVATION EASEMENT. Declarant has, by way of, and in accordance with, the Conservation Easement, granted to the South Florida Water Management

~~Doc#~~ tset3ø4

~~Pg#~~ 1715

District a perpetual conservation easement over those portions of the Properties identified in the Site Plan as Conservation Easement Area(s).

Section 2.7. PUBLIC ACCESS EASEMENT. Declarant has, by way of that certain Public Acces.s Easement Agreement recorded September 15, 2000 in Official Records Book 1653, at Page 854 of the Public Records of Monroe County, Florida (the "Public Access Easement") granted an easement to the City of Key West and to the general public for the purpose of providing access. ingress and egress on, upon, over and through those portions of the Common Properties designated in the Site Plat as Public Access Easement Areas.

Section 2.8 WAIVER OF USE. No Owner other than Declarant may exempt himself from personal liability for Assessments duly levied by the Association. No Owner may release the Townhome owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Properties and the facilities thereon or by abandonment of the Townhome.

Section 2.9. TITLE TO THE COMMON PROPERTES. Promptly upon the issuance of a certificate of occupancy on the final building, and in no event, later than two hundred seventy (270) days from the date thereof, Declarant shall convey to the Association, by quit claim deed or deeds, the fee simple title to the Common Properties (as defined in the Declaration) free and clear of any liens but subject to:

(a) Any real estate taxes and assessments for the year in which the Common Properties are transferred:

(b) Any covenants. conditions, restrictions, reservations, limitations and easements then of record, including but not limited to this Declaration, the Conservation Easement and the Public Access Easement; and

(c) Any zoning and governmental ordinances then applicable.

The Association shall accept this conveyance of the Common Properties and shall pay all costs of such conveyance including documentary stamp and other taxes of conveyance, recording charges, title insurance expense, and attorney's fees. The Association shall thereafter hold title to them for the benefit of those persons entitled to use them under the provisions of the Declaration. The conveyance shall not impair in any way the Declarant's rights and easements set forth elsewhere in the Declaration.

ARTICLE [L].
MEMBERSHIP IN ASSOCIATION

Section 3.1. AUTOMATIC MEMBERSHIP. Every Owner shall automatically be a Member of the Association upon becoming the Owner of a Lot and Townhome. and shall remain a Member until such ownership ceases for any reason, at which time such Owner's membership shall cease automatically. Other than as an incident to transfer of title to a Lot, membership in the Association shall not be transferable and any attempted transfer shall be null and void. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Lot shall be entitled, by virtue of such lien, mortgage or other encumbrance to membership in the

Doc#1501304

BkN **2091P**" 1116

Association, or to any of the rights or privileges of such membership. To the extent a Lot is owned jointly by more than one Person, all such Persons shall be deemed to be Members of the Association.

ARTICLE IV.
VOTING RIGHTS

Section 4.1. CLASSES OF VOTING MEMBERSHIP. The Association shall have two (2) classes of voting Members as follow.s:

A. Class A.: Owner Members shall originally be all Owners with the exception of Declarant for so long as there exists a Class B Member. Class A Members shall be entitled to cast votes in accordance with the schedule included in this Subsection. When more than one person holds such interest or interests in any Townhome, all such persons shall be Members, but the single vote for such Townhome shall be exercised as they among themselves determine, but, subject only to Subsection B, in no event shall more than the number of votes appearing in the following schedule be cast with respect to any such Townhome.

Type I	--	1 vote per Townhome
Types II and III	--	2 votes per Townhome
Type IV	--	3 votes per Townhome

The respective votes given above shall be cast for each Townhome as a single block in each instance, and shall not be divisible as to the vote cast for any Townhome. Declarant shall be a Class A Owner Member with regard to Townhomes owned by Declarant upon termination of Class B status as provided below.

B. Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to one (1) vote, plus two (2) votes for each vote entitled to be cast in the aggregate at any time and from time to time by the Class A Members. By way of illustration, if at any given time the Class A Members were entitled in the aggregate to cast five (5) votes, the Class B Member would be entitled to cast eleven (11) votes. The Class B membership shall convert to the voting schedule as shown in the schedule in Subsection A above upon transition of control of the Association to non-Declarant Owners, or sooner at the election of the Declarant (whereupon the Class A Members shall be obligated to elect the Board and assume control of the Association).

Section 4.2. VOTE DISTRIBUTION. Class A Members shall be entitled to the abovereferenced number of votes for each Townhome in which they hold the interest required for membership. When more than one person holds such interest or interests in any Townhome (such persons being referred to in this Section as "Co-Owners"), all such Co-Owners shall be Members and may attend any meetings of the Association, but only one such Co-Owner shall be entitled to exercise the vote to which the Townhome is entitled. Such Co-Owners may from time to time designate in writing one of their number to vote. Fractional votes shall not be allowed, and the vote for each Townhome shall be exercised, if at all, as a Townhome. Where no voting Co-Owner is designated, or if such designation has been revoked, the vote for such Townhome shall be exercised as the majority of the Co-Owners of the Townhome mutually agree. Unless the Board receives a written objection from a Co-Owner, it shall be presumed that the appropriate voting Co-Owner is acting with the consent of all Co-Owners. No vote shall be cast

Doc#191364

Bkn 2091

1717

for any Townhome where the majority of the Co-Owners cannot agree to said vote or other action. The non-voting Co-Owner or Co-Owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly owned Townhome and shall be entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established herein, and/or in the By-Laws of the Association, shall be binding on all Co-Owners, their successors and assigns. If a Townhome is owned by a corporate entity, then the person entitled to cast the vote for the Townhome shall be designated by a certificate signed by the president or the vice-president and attested by the secretary or the assistant secretary, if a corporation, or the managing member, if a limited liability company, and filed with the Secretary of the Association.

ARTICLE V. DUTIES AND POWERS OF ASSOCIATION

Section 5.1. The Association, acting through the Board of Directors, shall also have the power and duty to:

(a) Maintain, repair and otherwise manage the Common Properties and all facilities, Improvements and landscaping thereon in accordance with the provisions of this Declaration, including, but not limited to the surface water management system.

(b) Maintain, repair and otherwise manage the landscaping, utilities, water and sewer easements located in the median or elsewhere on SeaSide Drive, to the extent not maintained by the Master Association.

(c) Maintain private streets, driveways and sidewalks within or upon the Common Properties, including cleaning and periodic resurfacing.

(d) Obtain, for the benefit of the Common Properties, all commonly metered water, sanitary sewage and electric services, and may provide for all refuse collection and cable or master television service (if any) as necessary.

(e) Grant easements, rights-of-way or strips of land, where necessary, for utilities, sewer facilities, cable TV and other services over the Common Properties to serve the Common Properties and other portions of the Properties.

(f) Maintain such policy or policies of liability, fire, flood and casualty insurance with respect to the Common Properties and personal property, if any, located thereon or used in connection therewith and owned by the Association or the Declarant as provided herein for furthering the purposes of and protecting the interests of the Association and members and as directed by this Declaration and the By-Laws and/or Articles of the Association.

(g) Maintain such policy or policies of liability, fire, flood, wind and casualty insurance with respect to the Buildings (excluding contents, appliances and interior finishes) as provided herein.

BkN

(h) Employ staff or contract with a Management Company (which may be an affiliate of Declarant) to perform all or any part of the duties and responsibilities of the Association, and to delegate its powers to committees, officers and employees.

(i) Install and maintain such security devices, guard gates, detectors and communication facilities, and employ or contract for employment of security services, guards and watchmen for the Common Properties as the board deems necessary or appropriate. Townhome Owners shall hold the Association harmless against loss or damage resulting from failure of the guard services or security devices from preventing loss or damage to Townhome Owners.

(j) Promulgate, amend and alter rules and regulations governing the use of the Common Properties.

(k) Maintain and preserve the "Conservation Easement Area(s)", , as such are designated on the Site Plan, including but not limited to the "Saltpond & Natural Vegetation Area" and "Natural Vegetation Area," as required by the Development Agreement, and the Conservation Easement, and as may be required by any Federal, state or local governmental agency or quasi-governmental agency with jurisdiction over these areas, including, but not limited to, South Florida Water Management District, Army Corps of Engineers and Department of Environmental Protection Agency, as well as any other scenic assets, natural features and natural or man-made recreational areas, if any, within the Property, to the maximum extent feasible.

(l) Organize the Architectural Committee and other committees as required or permitted by this Declaration and as deemed appropriate to carry out the efficient performance of its duties and exercising of its powers; and.

(m) Maintain and preserve that certain wetland mitigation, monitoring and maintenance program within the Conservation Easement Areas in accordance with that certain SNMD Permit 44-00244-P, as modified from time to time (the "SFWMD Permit"), for the preservation of 1.75 acres of herbaceous/shrub wetlands and restoration/creation of 1.75 acres of herbaceous/shrub wetlands and enhancement of 3.76 acres of herbaceous/shrub wetlands in accordance with the following work schedule:

<u>Completion Date</u>	<u>Activity</u>
April 1, 2005	Eighth semi-annual monitoring
October 30, 2005	Ninth semi-annual monitoring
April 30, 2006	Tenth semi-annual monitoring

(n) Take such other action that the Board shall deem advisable with respect to the Properties as may be permitted hereunder or under the law.

ARTICLE VI.
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 6.1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS.

Each Owner of any Townhome (except Declarant) located upon the Properties by acceptance of a deed therefor (or who accepts title thereto as an heir or devisee) whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (a) Common Assessments for Common Expenses, (b) Special Assessments, and (c) any other charges or fines provided for in this Declaration, the Articles, the By-Laws, Master Declaration or any other community document; all of such assessments to be established and collected as hereinafter provided (whether or not the covenant or agreement is expressly mentioned in the deed or other instrument by which Owner acquired title). Such Assessments, together with any related interest, penalties, and costs of collection including reasonable attorney's fees, shall be a charge on the Townhome and shall be and constitute a continuing lien thereon. Each such Assessment, together with interest, penalties, costs and reasonable attorney's fees, shall also be the personal obligation of the person who is or was the Owner of the Property against which the Assessment is made or on which the Assessment constitutes or gives rise to a lien and, except as otherwise provided therein, the personal obligation of the Owner's successors and assigns. If the Owner consists of more than one (1) person or entity, each such person or entity shall be jointly and severally liable for the aforementioned obligations. Subject to provisions of this Declaration protecting Mortgagees, the personal obligation for delinquent assessments shall pass with the Townhome and successors-in-title to such Townhome must pay the same at or before closing. The Board of Directors shall deposit all monies collected in one or more accounts, as it shall elect. Maintenance funds collected by Common Assessments shall include monies for either a Common Properties Reserve Fund for the replacement, repair, painting, resurfacing and other maintenance of the Common Properties, portions of the Buildings, facilities, or specific budgetary reserves therefor, to the extent necessary under the provisions of this Declaration.

Section 6.2. PURPOSE OF COMMON ASSESSMENTS. The assessments imposed by this Article shall be used for the Association's operation and administration and fulfillment of its duties hereunder. Such duties shall include the promotion of the common health, safety, benefit, recreation, welfare and aesthetics of the Owners and the Improvements and maintenance of the Common Properties and portions of the Buildings for which the Association is responsible to maintain as provided herein. Disbursements shall be made by the Board for such purposes as are deemed necessary for the discharge of its responsibilities herein for the common benefit of the Owners and to reimburse Declarant for start-up expenses advanced to the Association by the Declarant. However, disbursements from the Common Properties Reserve Fund or other reserve funds shall be made by the Board of Directors only for the specific purposes specified in this Article VI except as noted above. Disbursements of funds other than funds held for Common Properties reserves shall be made by the Board of Directors for such purposes as are necessary for the discharge of its responsibilities herein for the common benefit of all of the Owners.

Section 6.3. DAMAGE TO COMMON PROPERTIES BY OWNERS. The foregoing maintenance, repairs or replacements within the Common Properties arising out of or caused by the willful or negligent act of an Owner, the Owner's family, guests, invitees or lessees shall be effected at said Owner's expense or a Special Assessment therefor shall be made against the Owner's Townhome together with all Improvements thereon (unless proceeds of insurance are collected with respect thereto).

Doc ' 1501304

:890355-4

201

1720

Section 6.4. CAPITAL IMPROVEMENT AND RECONSTRUCTION ASSESSMENTS.

(a) In addition to the Common Assessments authorized above, the Board of Directors of 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, repair or replacement of a capital improvement or other such addition upon the Common Properties, including fixtures and personal property related thereto, and for the reconstruction, repair or replacement of part or all of those portions of a Building for which the Association is responsible pursuant to this Declaration. Such Assessments will be permitted, provided further that any such Special Assessment for reconstruction or capital improvement purposes in excess of \$10,000 per Unit for Type I Units, \$20,000 per Unit for Type 2 Units, \$30,000 per Unit for Type 3 Units and \$40,000 per Unit for Type 4 Units, shall require the vote or written assent of a majority of the Members who are subject to such Assessments. However, prior to turnover of control of the Association from the Declarant to the Owners, assent of the Owners as set forth in the immediately preceding sentence shall not be required. Without limiting the generality of the foregoing, painting shall be considered a capital improvement. No action authorized in this Section shall be taken without the prior written consent of Declarant as long as Declarant owns any portion of the Property.

(b) Approval by a majority of the Owners shall not be required in connection with non-capital repair and maintenance of those items for which the Association is obligated hereunder to repair and maintain.

Section 6.5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTION 6.4. Written notice of any meeting called for the purpose of taking any action authorized under Section 6.4 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 so called, the presence of Members in person or by proxy constituting a majority of all votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting shall be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6.6. DATE OF COMMENCEMENT OF TOWNHOME OWNERS' OBLIGATION FOR COMMON ASSESSMENT. Every Owner other than the Declarant shall be required to pay Assessments under this Article with respect to a Townhome upon acquiring title thereto.

Section 6.7. SETTING OF COMMON ASSESSMENTS AND SPECIAL ASSESSMENTS • DUE DATE.

(a) The Board of Directors shall fix the proposed amount of the annual Common Assessments to be levied against each Owner subject to Assessment at least thirty (30) days in advance of the period covered by the Assessment. The Assessment shall reflect the estimated Association common area expenses.

:890355-

(b) The Board of Directors shall allocate a pro rata share of the Association's Common Expenses and Special Assessment to all Townhomes upon which a Certificate of Occupancy has been issued located on the Property, which pro rata share shall be based on the percentages as provided in Exhibit attached hereto and made a part hereof.

(c) Nothing herein obligates the Declarant to complete construction of all ninety-six (96) proposed Townhomes. Owners shall pay a pro rata share of Association Common Expenses regardless of the number of Townhomes completed by Declarant.

(d) During the first fiscal year of the Association (the period of time from the conveyance of the first Townhome to an Owner for one year immediately following such conveyance), the maximum Common Assessment for any Townhome upon the Property shall not exceed that respective amount specified in the initial operating budget adopted by the Association.

(e) The Assessments shall be based upon an Estimated Operating Budget that may or may not include reasonable reserves for deferred maintenance or replacements of Improvements the Association is responsible hereunder for maintaining and for contingencies. Reserves for individual Buildings may be budgeted upon agreement by a majority of Unit Owners therein which reserves will be budgeted as Special Assessments for each Building.

(D The Board may provide in its absolute discretion that the periodic Assessments be payable either quarterly or monthly.

Section 6.8. EXEMPT PROPERTY. Common Expenses shall be assessed only against Townhomes that are subject to assessment under the provisions hereof, and no portions of the Common Properties shall be subject to assessment for Common Expenses.

Section 6.9. SPECIAL ASSESSMENTS. The Board shall determine and levy as needed Special Assessments as provided under this Declaration. Special Assessments shall be levied equitably against the affected Townhome(s). In the event that repairs in excess of routine maintenance are required to less than all the Buildings, then the Townhomes in each affected Building shall share equally in the expenses attributable to such Building.

Section 6.10. DECLARANT EXEMPTION.

(a) To the extent that the Declarant owns any Lots (including but not limited to sales models and administrative offices), and so long as the Declarant's guarantee is in effect, as set forth in Subsection (b) hereof, such Lot shall not be assessed as provided above and shall only be subject to assessment upon being conveyed to an Owner, other than the Declarant.

(b) The Declarant guarantees that Common Assessments imposed upon the Owners other than Declarant shall not increase over the amount set forth in the Estimated Operating Budget of the Association until one (1) year after the conveyance of the first Townhome from Declarant to an Owner ("Initial Guarantee Period"). During the Initial Guarantee Period, the Declarant, as owner of such Lots as are owned by it, shall be relieved from the obligation of paying its pro rata share of assessments. but instead shall be obligated to pay to the Association all sums in excess of sums due from all Owners, other than Declarant, which are

necessary to pay the actual expenses of the Association. After the Initial Guarantee Period, the Declarant

Doe" 191304

Bk# 2091 Pg#1722

shall have the option, at its sole discretion, to extend the guarantee for additional periods commencing at the expiration of the Initial Guarantee Period.

Section 6.1 1. ASSOCIATION'S REMEDIES FOR NON-PAYMENT.

(a) Penalties for Delinquency. Any assessment that is unpaid for more than thirty (30) days after the date it is due shall bear interest at the highest rate allowed by law from the date it is due until the date it is paid. At its option, the Association may accelerate all assessments due for the balance of the fiscal year upon default in payment by a Townhome Owner.

(b) Enforcement of Lien. The Association may bring an action in its name to foreclose any lien on a Townhouse in the manner in which mortgages of real property are foreclosed in Florida and may also bring an action to recover a money judgment for unpaid periodic or special Assessments with interest thereon (plus the costs and expenses mentioned in Section 6.1 1(c)) without waiving any claim of lien, provided that in either case the Association **must give the delinquent Owner at least thirty (30) days' written notice of its intentions and, in the case of a foreclosure, must file a claim of lien in the Public Records of Monroe County, Florida. Upon the timely curing of any default (including the payment of fees, costs and attorneys' fees secured by the Association's lien) for which a claim of lien was filed, the Owner curing the default is entitled to have a satisfaction of lien recorded upon payment to the Association of a fee to be determined by the Association but not to exceed One Hundred Dollars (\$100.00).**

(c) Attorneys' Fees and Other Costs of Enforcement. Reasonable attorneys' fees incurred by the Association or its agent incident to the collection of an unpaid periodic or special Assessment or the enforcement of any lien provided for by Section 6.1 hereof (including attorneys' fees in connection with any review of a judicial or administrative proceeding by appeal or otherwise), together with all sums advanced and paid by the Association or its agent for taxes and payments on account of superior liens or encumbrances that may be required to be advanced by the Association or its agent in order to preserve and protect its lien, shall be payable by the Owner liable for the Assessment and be secured by the Association's lien.

(d) Subordination of the Lien to Mortgages. The lien for periodic or special Assessments provided for in this Article shall be subordinate to the lien of any first mortgage. Sale or transfer of any Townhome shall not affect the Assessment lien and every grantee in a

voluntary conveyance of a Townhome shall be jointly and severally liable for all unpaid periodic or special Assessments against the grantor for the Owner's share of the Assessments up to the time of conveyance. Notwithstanding the provisions of this Section 6.11, when an Institutional Mortgagee, or other purchaser of a Townhome obtains title to the Townhome by a purchase at the public sale resulting from the Institutional Mortgagee's foreclosure judgment in a foreclosure suit in which the Association has been joined as a defendant or as a result of a deed given in lieu of foreclosure, such acquirer of title and the Owner's successors and assigns are not liable for the share of Common Expenses or Assessments attributable to the Townhome or chargeable to the former Townhome Owner of the parcel which became due prior to acquisition of title as a result of the foreclosure, unless the share is secured by a claim of lien for Assessments that was recorded prior to the recording of the foreclosed mortgage. The unpaid share of Common Expenses or Assessments is a Common Expense collectable from all of the Townhome Owners, including such acquirer and the Owner's successor and assigns.

DocId: 35541300

: 8903554

aos: 1723

(e) Cumulative Remedies. Each Owner of an assessable Townhome and every holder of a mortgage thereon shall have the right to require from the Association a certificate showing the amount of unpaid periodic or special assessments against the Owner with respect to the Townhome upon payment to the Association of a reasonable fee not exceeding Seventy-Five Dollars (\$75.00). Any person other than the Owner of the Townhome in question who relies upon such a certificate shall be protected thereby.

Section 6.12. FINANCIAL REPORTS. The Board of Directors shall cause to be prepared an annual balance sheet and operating statement for each fiscal year, and shall cause to be distributed a copy of each such statement to each Member, or alternatively provide written notice to each Member that the budget is available upon request at no charge to the Member. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association, setting forth whether the Assessments upon a specified Townhome have been paid. A properly executed Certificate of the Association as to the status of the Assessments upon such Townhome shall be binding upon the Association as of the date of its issuance.

ARTICLE VII ARCHITECTURAL CONTROL

Section 7.1. MEMBERS OF COMMITTEE. The Architectural Committee sometimes referred to in this Declaration as the "Committee," shall consist of three (3) members. The initial members of the Committee shall consist of persons designated by Declarant. Each of said persons shall hold office until all Townhomes have been conveyed, or at such earlier time as the Declarant may, at its sole option, elect. Thereafter, each new member of the Committee shall be appointed by the Board of Directors and shall hold office until such time as such person has resigned or has been removed or a successor has been appointed, as provided herein. Members of the Committee, other than those designated by the Declarant, may be removed at any time without cause. The Board of Directors shall have the right to appoint and remove all members of the Committee other than those designated by Declarant.

Section 7.2. REVIEW OF PROPOSED CONSTRUCTION. Subject to Section 7.8 of this Article, and to the extent permitted by law, no building, fence, gutters or rainspout, antenna, wall, aerial, microwave dish, satellite dish antenna, external enclosure, patio fencing, screen porch covers or other Improvement (including painting and landscaping) shall be commenced, painted, erected, installed, planted or maintained on the Properties, nor shall any canopy or shutters be attached to or placed upon outside walls or roofs of any Townhome or Building by any Owner other than Declarant until and unless the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same, shall have been submitted to the Committee for its approval. No Owner shall erect displays, statues or other ornamentation in the front yard, or otherwise visible from elsewhere on the Property without approval by the Committee. No landscaping other than sod or grass shall be placed by any Owner on the front yard or portions of the rear yard visible from the street or sidewalk without Committee approval. No building, fence, wall or other structure or Improvement shall be commenced, altered, removed, painted, erected or maintained on any Lot, nor shall any addition, removal, change or alteration to any structure be made, nor shall any awning, canopy

or shutter be attached or placed upon outside walls or roofs of Buildings or other improvements, unless and until the plans and

DEW 1501304

1724

specifications showing the nature, kind, shape, height, materials and location of same shall have been submitted to, and approved in writing by, the Committee. Installation by any Owner of any structure, including, but not limited to ornamental objects, swing sets, sporting equipment, etc., shall require Committee approval. Notwithstanding any other provision of the Declaration to the contrary, Committee approval shall not be required for any item of a non-structural nature in the rear yard, provided that same (i) does not exceed ten feet in height; and (ii) is otherwise not visible from elsewhere within the Property. The Committee shall grant its approval in its sole and absolute discretion, and only if it deems that the appearance of any structure affected thereby will be in harmony with the surrounding structures and is otherwise desirable. The Committee may also issue such rules or guidelines setting forth procedures for the submissions of plans and specifications submitted for its review as it deems proper, including, without limitation, the submission of floor plans, site plans, drainage plans, elevation drawings and description of samples of exterior materials and colors. If the proposed construction alterations or additions are to a portion of the Improvements that the Association is obligated to maintain, said approval may also be subject to approval by the Board of the Association. The Committee may condition its approval of proposals and plans and specifications in such manner as it deems appropriate and may require the submission of additional information prior to approving or disapproving such request. Until receipt by the Committee of any required plans and specifications, or other additional information requested by it, the Committee may postpone review of any plans submitted for approval. The Committee shall have sixty (60) days after delivery for all required materials to approve or reject any such plans, and if not rejected within such sixty (60) day period, such plans shall be deemed approved. Notwithstanding any provision in this Article V II to the contrary, the approval of the Architectural Committee shall not be required for any additions, changes or alterations to Townhomes that are contained within such structure.s if such additions, changes or alterations are not visible from outside such Townhomes and are not structural. All changes and alterations shall be subject, independently, to all applicable governmental statutes, building codes. ordinances, rules, regulations, orders and decrees. No construction, reconsuuction, addition, alteration or change by Declarant shall require the prior approval or any certificate of consent of the Committee. No structural changes may be made to the interior or exterior of the Buildings or Townhomes. No Committee approval can be issued for a structural alteration. The Buildings will be constructed with impact resistant exterior windows in lieu. Accordingly, installation of hurricane shutters by Owners shall be subject to Committee approval.

Section 7.3. MEETNGS OF THE COMMITTEE. The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time, by resolution unanimously adopted in writing, designate a Committee Representative (who may, but need not, be one of its members) to take any action or may perform duties for and on behalf of the Committee, except the granting of variances pursuant to Section 7.8 hereof. In the absence of such designation, the vote of any two (2) members of the Committee shall constitute an act of the Committee.

Section 7.4. NO WAIVER OF FUTURE APPROVALS. The approval of the Committee to any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any .similar proposals, plans and specifications, drawings or matter whatsoever subsequently or additionally submitted for approval or consent.

Dee" tsø13ø4

Pgu 1725

Section 7.5. COMPENSATION OF MEMBERS. The members of the Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

Section 7.6. INSPECTION OF WORK. Inspection of work and correction of defects therein shall proceed as follows:

(a) Upon completion of any work for which approved plans are required under this Article VII, the Townhome Owner shall give written notice of completion to the Committee.

(b) Within ninety (90) days upon completion of work approved hereunder, the Committee or its duly authorized representatives may inspect such Improvement. If the Committee finds that such work was not done in substantial compliance with this Declaration, it shall notify the Townhome Owner in writing of such non-compliance within such 90-day period, specifying the particulars of non-compliance, and shall require the Townhome Owner to remedy the same.

(c) If upon the expiration of thirty (30) days from the date of such notification, the Townhome Owner shall have failed to remedy such non-compliance, the Committee shall notify the Board of the Association in writing of such failure. Upon Notice and Hearing, the Board shall determine whether there is a non-compliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If non-compliance exists, the Townhome Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If the Townhome Owner does not comply with the Board ruling within such period, the Board, at its option, may either remove the non-complying improvement or remedy the non-compliance, and the Townhome Owner shall reimburse the Association, upon demand, for all expenses incurred in connection therewith, If such expenses are not promptly repaid by the Townhome Owner to the Association, the Board shall levy a Special Assessment against such Townhome Owner for reimbursement.

(d) If for any reason the Committee fails to notify the Townhome Owner of any non-compliance within ninety (90) days after receipt of said written notice of completion from the Townhome Owner, the Improvement and/or alteration shall be deemed to be in accordance with said approved plans.

Section 7.7. NON-LIABILITY OF COMMITTEE MEMBERS. Neither the Committee nor any member thereof, nor its duly authorized Committee Representative, shall be liable to the

Association or to any Owner or any other person or entity for any loss, damage or injury arising out of or in any connected with the performance of the Committee's duties hereunder, unless due to the willful misconduct or bad faith of a member and only that member shall have any liability. The Committee shall review and approve or disapprove all plans submitted to it for any proposed Improvement, alteration or addition, solely on the basis of aesthetic consideration, and the overall benefit or detriment which would result to SeaSide Key West Residences. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with any building or other codes.

IS01304

Doc# 150
Bkn 2091

1726

Section 7.8. VARIANCE. The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variance must be evidenced in writing and must be signed by at least two (2) members of the Committee. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Owner's use of the premises, including, but not limited to, zoning ordinances and Townhome set-back lines or requirements imposed by any governmental or municipal authority.

ARTICLE VIN.
MAINTENANCE AND REPAIR OBLIGATIONS

Section 8.1 . BY THE ASSOCIATION.

(a) Maintenance of Townhomes. With respect to Improvements upon the Properties, the Association shall be responsible for painting, repairing and replacing, as and when it deems same reasonably necessary, of the exterior building surfaces of each Townhome, including but not limited to the roof, exterior walls, windows and doors; all portions of the Building (exclusive of interior wall surfaces and coverings) contributing to the support of the Building, which portions shall include, but not be limited to, the outside walls of the Building, chasing and load bearing columns; all of such portions of the Townhomes contributing to the support of the Building; and other facilities for the furnishing of utility services that are contained in the walls of the Townhome contributing to the support of the Building (exclusive of interior wall surfaces and coverings); fencing originally installed by Declarant and any approved replacements thereof; and the grounds and landscaping upon the portions of each Townhome which are visible from the Common Properties, excluding those portions of the grounds and landscaping within the Lot's fenced in areas; provided that the painting, repair or replacement (as the case may be) is not necessitated by fire or other casualty. To the extent such painting, repair or replacement is necessitated by the negligence or misconduct of the Townhome's Owner, tenants, guests, or invitees, or of other Townhome Owners or their tenants, guests, or invitees, the cost and expense thereof shall be paid by such Owners. Except as otherwise provided herein, routine maintenance and repair expenses incurred by the Association from time to time shall be assessed to all Townhomes in the Property as a Common Assessment in accordance with Section 6.7 hereof. The Board may delegate the responsibility of ordering and/or performing the work required by this Section to the Management Company. Notwithstanding anything contained herein to the contrary, the Association shall not be liable or responsible for any loss or damage occasioned to any wall, floor, ceiling, or wall covering of said areas which may be damaged as a result of the Association's obligation of maintenance, repair or replacement under this Article V III, and the Townhome Owner shall bear the cost of any such loss or damage.

(b) Common Properties. The Association shall maintain, or provide for the maintenance of, all of the Common Properties and all Improvements thereon, including all Conservation Easement Areas, SaltPond and Natural Vegetation Areas and/or Natural

:8903554

Doc" 150i304

~~2091~~Pea 1727

Vegetation Areas, Public Access Easement Areas, recreational facilities, commonly metered utilities, and the interior and exterior of all recreation buildings, and any and all utility facilities and buildings on the Common Properties. Permits for mangrove trimming in portions of the Conservation Easement Areas have been applied for with appropriate municipal and state agencies. It is anticipated that in the event these permit applications are approved and accepted, the Association's Budget will be amended to add additional reserves for the mangrove trimming, which will result in an increase in the Assessments. This increase is anticipated, but not guaranteed, to equal approximately 2% of the current annual Common Expenses. The Association shall further maintain, reconstruct, replace and refinish any paved surface on the Common Properties. All of the foregoing obligations of the Association shall be discharged when and in such manner as the Board of Directors of the Association shall determine in its judgment to be appropriate.

(c) Public Access Easement. The Public Access Easement Agreement provides that the financial responsibility for maintenance, repairs and other expenses relating to the Easements defined therein, shall be allocated between the landowners and adjacent land owners benefitting from the subject Easements as set forth in the Public Access Easement Agreement and are to be memorialized in a maintenance agreement between relevant parties. The full cost for maintenance and replacement of that portion of the Public Access Easement which crosses the Common Properties has been included in the original Estimated Operating Budget of the Association. In the event a maintenance agreement is entered into, it is anticipated that this budgeted cost will be revised in accordance with the terms of that agreement.

Section 8.2. BY THE OWNERS.

(a) Maintenance of Townhome. With respect to Improvements upon the Properties, each Owner shall be responsible for keeping the interior and exterior of his Townhome in a clean, safe and orderly condition and in good repair to the extent the Association is not responsible for doing so hereunder. Each Owner shall be responsible for the maintenance, replacement or repair of all interior doors, interior walls, conduits within the walls serving the Townhome, courtyard terraces, screens, and all other portions of their Townhome not maintained by the Association in accordance with this Article VIII. Such responsibilities shall also include the maintenance, repair or replacement of all appliances, including the air conditioning and heating unit (and all components thereof) servicing each Townhome. The Association shall maintain, replace and/or repair on behalf of the Townhome Owner exterior walls, exterior windows, balconies, roof, rooftop terraces, if any, and driveways, with costs and expenses for such maintenance and repair being the responsibility of the Townhome Owner, and shall be billed by the Association and paid by the Owner by means of a Special Assessment.

:8903554

(b) Repair and Reconstruction After Casualty. If a Townhome is damaged by fire or other casualty, its Owner shall promptly restore those portions not maintained, repaired or replaced by the Association to at least as good a condition as it was in before the casualty occurred. Any such work shall be in accordance with the Townhome's original plans and specifications unless otherwise authorized by the Board and shall be otherwise subject in all respects to the provisions of Article V II hereof entitled "Architectural Control."

(c) Insurance. Each Owner shall be responsible to keep the contents of the Owner's Townhome insured in an amount acceptable to the Owner against loss or damage by

Doe"

1501304
BkN **2091 Pa** P" 1728

fire, flood, wind, other hazards covered by standard extended coverage endorsements, liability and whatever other risks are customarily covered.

(d) Trash Collection. The Owner shall pay the cost of individual trash collection, if available. If individual trash collection is not available, the Association shall arrange for trash collection and include the cost from same in the budget.

(e) Failure to Perform. If an Owner fails to comply with the foregoing provisions of this Section 8.2, the Association may proceed in court to enjoin compliance with them.

Section 8.3. DAMAGE TO BUILDINGS.

(a) Exterior Appearance and Design. Any Building containing Townhomes and which has suffered damage may apply through the Owners thereof for approval to the Architectural Committee for reconstruction, rebuilding or repair of the Improvements therein. Application for such approval shall be made in writing, together with full and complete plans and specifications, working drawings and elevations showing the proposed reconstruction and the end result thereof. The Architectural Committee shall grant such approval only if upon completion of the work the exterior appearance and design will be substantially like that which existed prior to the date of the casualty. Failure of the Architectural Committee to act within thirty (30) days after receipt of such a request in writing together with the drawings and plot plans showing the full and complete nature of the proposed changes shall constitute approval thereof. If the obligation for repair falls upon the Association, Architectural Committee approval will not be required prior to the commencement of such work. To the extent that any rebuilding or repair work is undertaken, the Association shall be responsible for rebuilding or repairing those portions of the Building for which it is responsible to repair and maintain, and the Owner shall be responsible for rebuilding or repairing those portions of the Building for which it is responsible to repair and maintain.

(b) Time Limitation. The Owner or Owners of any damaged building, the Association and the Architectural Committee shall be obligated to proceed with all due diligence hereunder, and the responsible party shall commence reconstruction within three (3) months after the damage occurs and complete reconstruction within one (1) year after damage occurs. unless prevented by causes beyond reasonable control.

(c) Declarant's Exemption. The Declarant shall be exempt from the provisions of paragraphs (a) and (b) of this Section 8.3.

ARTICLE IX.
PARTY WALLS

Section 9.1. GENERAL. Each wall built as part of the original construction of the various Buildings and placed on the dividing line between Townhomes on which they are situated shall constitute a party wall, and each Owner of one of the Townhomes shall own that portion of the wall which stands on the Owner's own Townhome together with a cross-easement of support in the other portion. To the extent not inconsistent with the provisions of this Article,

:8903554

Doc#1501304

201 1729

the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to all such party walls.

Section 9.2. EASEMENTS. Easements are hereby reserved in favor of all Townhomes sharing a party wall for overhangs or other encroachments resulting from original construction or from restoration that conforms substantially to the original construction. as well as in favor of the Association for access to such party walls for the purposes described in Section 8. I.

Section 9.3. SHARNG OF REPAIR AND MAINTENANCE. The costs of reasonable repair and maintenance of a party wall shall be shared equally by the Owners who make use of the wall.

Section 9.4. DESTRUCTION BY FIRE OR OTHER CASUALTY. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may request that the Association restore it, but no greater dimension of that party wall, or of any extension or restoration thereof, shall be placed upon the Townhome of the other Owner who is not extending, constructing or restoring it than that existing prior to the fire or other casualty, unless the written consent of the latter is first obtained. No part of any addition to the dimensions of that party wall (or of any extension thereof already built) that may be made by either one of the Owners who have used it (or by those claiming under them respectively) shall be placed upon the Townhome of the other Owner, unless the written consent of the latter is first obtained. If the other Owner thereafter makes use of the wall, such Owner shall contribute to the cost of restoration thereof in proportion to the Owner's use, subject to the right of any .such Owner to call for a larger contribution from the other Owner under any rule of law regarding liability for negligent or willful acts or omissions. In the event that the repairs are covered by insurance proceeds, then to the extent that such proceeds are insufficient to cover all the costs. the deficiency shall be paid a provided in the immediately preceding sentence.

Section 9.5. WEATHER PROOFING. Notwithstanding any other provision of this Article I.X, any Owner who, by the negligence or willful act of the Owner or of any person for whom the Owner is responsible, causes a part of the party wall not previously exposed to the elements to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements. Such repairs shall be performed by the Association at the Owner's expense.

Section 9.6. RIGHT TO CONTRIBUTION RUNS WITH LAND. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to .such Owners' successors in title to the Owner's Townhome. Upon conveyance or other transfer of title, the per.sonal liability of the prior Owner shall cease.

Section 9.7. ARBITRATION. [n the event of any dispute arising concerning a party wall or under the provisions of this Article generally, each party shall choose one arbiter. those arbiters shall choose one additional arbiter, and the decision of a majority of the three arbiters thus chosen shall be conclusively determinative of the question involved. If a panel cannot be designated in this way, the matter shall be arbitrated pursuant to the rules of the American Arbitration Association (or its successors in function) then obtaining. Any decision made pursuant to this Section 9.7 shall be conclusive and may be entered in any court of competent jurisdiction in accordance with the Florida Arbitration Code.

ARTICLE X.
USE RESTRICTIONS

All of the properties shall be held, used and enjoyed subject to the following limitations and restrictions, subject to the exemption of Declarant in Section 10.15 herein.

Section 10.1. NUISANCES. No noxious or offensive activity shall be carried on about the Properties or in or about any Buildings or other Improvements, Townhomes, or on the Common Properties, or in any portion of the Property, nor shall anything be done therein which may be or become an unreasonable annoyance or a nuisance to any Owner. No use or practice shall be allowed in or around the Townhomes which is a source of annoyance to Owners or occupants of Townhomes or which interferes with the peaceful possession or proper use of the Townhomes or the surrounding Common Properties. No loud noises or noxious odors shall be permitted in any buildings or other Improvements, Townhomes, or on the Common Properties, and the Board of Directors shall have the right to determine in accordance with the By-Laws if any noise, odor or activity producing such noise, odor or interference of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, large power equipment or large power tools, unlicensed off-road motor vehicles or any items which may unreasonably interfere with television or radio reception of any Owner shall be located, used or placed on any portion of the Properties, or exposed to the view of other Owners without the prior written approval of the Board of Directors.

Section 10.2. SIGNS DISPLAYS AND EXTERIOR LIGHTING. No sign, poster, display, flag (other than the Flag of the United States), billboard or other advertising device and/or exterior lighting of any kind shall be displayed to the public view on any portion of the buildings or other Improvements, Townhomes, Common Properties, or any portion of the Property without the prior written consent of the Board of Directors, except signs, regardless of size, used by Declarant, its successors or assigns, for advertising during the construction and sale period of any and all of SeaSide Key West Residences, and excepting such reasonable signs as Declarant shall authorize, and except holiday flags displayed no greater than ten (10) days preceding and subsequent to such holiday.

Section 10.3. PARKING AND VEHICULAR RESTRICTIONS. Parking upon the Properties shall be in accordance with Section 2.3 of this Declaration. No Owner shall park, store or keep on any portion of the Property any commercial-type or non-operational vehicle unless authorized by the Rules and Regulations promulgated by the Association or unless expressly authorized in writing by the Board. No Owner shall keep any other vehicle on the Common Properties that is deemed to be a nuisance by the Board. No boats and trailers or other recreational vehicles, including campers or mobile homes, may be kept upon the Common Properties unless authorized by the Rules and Regulations promulgated by the Association or unless expressly authorized in writing by the Board. No Owner shall conduct repairs (except in an emergency) or restorations of any motor vehicle, boat, trailer, or other vehicle upon any portion of the Property. A maximum of two (2) approved vehicles, as permitted hereby, per

Townhome and owned by Townhome Owners shall be kept on the Property unless otherwise authorized under section 2.3. The garage door must always be closed unless otherwise in use. Boats, trailers, recreational vehicles and/or campers must be parked within the garage of a Townhome only if the garage door can be closed.

oCHasø:aø4

:890355-4

201 1731

Section 10.4. ANIMAL RESTRICTIONS. No animals (including livestock, reptiles or poultry) of any kind shall be raised, bred or kept on the Common Properties. No dog, cat or other pet may run loose and unattended on the Common Properties, and all such pets must be walked only in such portions of the Common Properties as may from time to time be designated for such purpose by the Association. No animal may be kept in any Townhome unless the animal is either a dog, a cat, a bird or another type of household pet (as defined by the Association). No Townhome Owner may keep more than two pets without the prior consent of the Board, and no pet may be kept, bred or maintained for any commercial purpose or which becomes a nuisance or annoyance to neighbors. Owners must pick up and clean all wastes of their pets, regardless of where on the Properties same was left, and dispose of them appropriately. No dogs or pets emitting disturbing noise may be kept outside of a Townhome, including on any balcony or terrace or patio, when such Townhome's Owner is not present. Violation of any provision of this Section shall entitle the Association to all of its usual rights and remedies (including, but not limited to, the right to fine Owners as provided herein, in the Association's By-Laws or in any applicable rules and regulations).

Section 10.5. TRASH AND OTHER MATERIALS. No rubbish, trash or garbage or other waste material shall be kept or permitted on Common Properties and/or any other portion of the Property. No clothing or household fabrics shall be hung, dried, or aired in such a way as to be visible, and no lumber, grass, shrub or tree clippings or plant waste, metals, bulk material or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Properties except within an enclosed structure appropriately screened from view, except when accumulated by the Association for imminent pickup and discard.

Section 10.6. TEMPORARY BUILDINGS. No outbuilding, basement, tent, shack, shed or other temporary building or improvement of any kind shall be placed upon any portion of the Properties, either temporarily or permanently. No trailer, camper, motor home or recreational vehicle shall be used as a residence, either temporarily or permanently, or parked upon the Common Properties.

Section 10.7. COMMON PROPERTIES FACILITIES. Nothing shall be altered or constructed in or removed from the Common Properties except upon the written consent of the Board.

Section 10.8. RULES AND REGULATIONS. Attached hereto and made a part hereof as Exhibit "E" are rules and regulations as to the use of the Common Properties which are in addition to restrictions, rules and regulations which are in addition to restrictions, rules and regulations set forth elsewhere in this Declaration. Notwithstanding any other provision to the contrary in this Declaration, the Board may, from time to time as it deems necessary or prudent, amend, add to, delete or alter the rules and regulations specified in Exhibit "E" without

necessity of amending this Declaration. A rule and regulation made, amended, added to, deleted or altered by the Board shall become effective as and when a copy of same shall be posted on the Common Properties and copies of same shall be mailed to Owners. Each Owner, lessee, and their respective families, invitees and guests, and other users of the Properties must strictly adhere to the rules and regulations specified in said Exhibit "E" as it may from time to time be amended, altered, added to or deleted, and to the restrictions, rules and regulations specified elsewhere in this Declaration. The Association shall have the rights, remedies and privileges specified herein to enforce such obligations, or the breach of any rule, regulations or restriction constituting a

:890355-4

tsøwøa

1732

breach of the covenants of this Declaration. However, the Declarant, for so long as it shall be a Member shall be exempt from adherence to such rules and regulations.

Section 10.9. ALTERATIONS. No Owner shall cause or allow Improvements or changes to any exterior portion of the Owner's Townhome, including, but not limited to, painting or other decorating of any nature, installing of any electrical wiring, television antenna, machinery or air-conditioning units or in any manner changing the appearance of any portion of such Townhome, without first obtaining the written consent of the Architectural Committee.

Section 10.10. NO IMPROPER USES. No improper, offensive, hazardous or unlawful use shall be made of any Townhome and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any Townhome shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Townhome or elsewhere herein set forth.

Section 10.11. LEASES. No portion of a Townhome (other than an entire Townhome) may be rented. All leases shall be in writing, on a form approved by the Association, with the Rules and Regulations attached thereto, and shall grant the Association the right to require the Owner to terminate the lease, and evict the tenant, upon default by the tenant in observing any of the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association, applicable rules and regulations, or other applicable provisions of any agreement, document or instrument governing the Property, and shall further provide that the Townhome Owner acknowledge the Owner's continuing obligation for compliance with all provisions of these Property documents. A complete and signed copy of any and all leases shall be provided to the Association prior to occupancy of the Townhome by the tenant. Leasing of Townhomes may, if the Association so elects, also be subject to the prior written approval of the Association and the Association may deny permission to lease any Townhome on any reasonable grounds the Association may find. No lease or sublease shall be for a term of less than thirty (30) consecutive days or less than one (1) calendar month, whichever is less (the "Minimum Rental Term"), and no Townhome Owner shall advertise or hold out a Townhome to the public as being available for lease or sublease for less than such a term. The Minimum Rental Term shall in no event be less than the rental period as permitted by the Code of Ordinances of the City of Key West, Florida, amended from time to time. Regardless of whether or not expressed in the applicable lease, all Townhome Owners shall be jointly and severally liable with their tenants to the Association for any amount which is required by the Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant or for the acts and omissions of the Owner's tenant(s) which constitute a violation of, or non-compliance with, the provisions of this Declaration and of any and all rules and regulations of the Association. This Section shall also apply to subleases and assignments and renewals of leases. No lease approved by the Association shall be amended or modified without the Association's approval.

The Association may charge a lease approval fee not in excess of any amount provided by law as a maximum amount for such fees. Additionally, in making its determination as to whether to approve a lessee of a Townhome, the Association shall not discriminate on the grounds of race, gender, religion,

national origin, familial status or physical or mental handicap; provided, however, nothing herein shall be construed to require the Association to furnish an alternate lessee in the event the Association disapproves a lease or lessee. Every lease shall be

Dee "1501

209i 1733

subordinated to any lien filed by the Association whether before or after such lease was entered into.

While Declarant owns any Townhome for sale, the requirements of this Section shall not apply to Declarant, except to the extent required by law.

Section 10.12. EXTERIOR IMPROVEMENTS' LANDSCAPING. Without limiting the generality of Section 10.9, no Owner shall, without first obtaining the written consent of the Committee or the Association, as the case may be, cause anything to be affixed or attached to, displayed or placed on, or hung from the exterior walls, doors, windows, patios, fencing, or terraces of the Townhome (including, but not limited to, awnings, signs, storm shutters, screens, furniture, fixtures and equipment), or grow or plant any type of shrubbery, flower, tree, vine, grass or other plant life upon the portions of the Townhome or the Common Property outside the Townhome.

Section 10.13. OCCUPANCY. Not more than two (2) persons may permanently occupy a one-bedroom Townhome. Not more than four (4) persons may permanently occupy a two-bedroom Townhome, and not more than six (6) persons may permanently occupy a 3-bedroom Townhome.

Section 10.14. DECLARANT EXEMPTION. Without limiting the generality of the foregoing, nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant and Declarant's Permittees from doing on any Property owned by them whatever they determine to be necessary or advisable in connection with the completion of said work, including, without limitation, such alteration of its construction plans and designs as Declarant deems advisable in the course of development (all models or sketches showing plans for future development of SeaSide Key West Residences may be modified by the Declarant anytime and from time to time, without notice); or

(b) Prevent Declarant or Declarant's Permittees from erecting, constructing and maintaining on any property owned or controlled by Declarant such structures as maybe reasonably necessary for the conduct of its or their business of completing said work and establishing a residential community upon the Property and disposing of Townhomes thereon by sale, lease or otherwise; or

(c) Prevent Declarant or Declarant's Permittees from conducting on any property owned or controlled by Declarant its or their business of developing, subdividing, grading and constructing Improvements upon the Property and of disposing of Townhomes therein (or disposing of Townhomes upon neighboring lands owned and developed by Declarant) by sale, lease or otherwise; or

(d) Prevent Declarant or Declarant's Permittees from determining in its or their sole discretion the nature of any type of improvements to be initially or ultimately constructed by it or them on the Property; or

(e) Prevent Declarant or Declarant's Permittees from selling and leasing existing and planned Townhomes including, but not limited to, constructing and maintaining sales offices, a sales and administrative trailer or trailers, the fence abutting such sales' facility

Doe" 1301304

2091P" 1134

(and signs therein) and model Townhomes on any portion of the Property, soliciting and receiving the visits of unlimited numbers of prospective purchasers and tenants (all of whom shall have the right while visiting to use parking spaces upon the Common Properties that have not been assigned to a single specific Townhome by Declarant, and to visit and inspect the facilities upon the Common Properties). and the placing of signs and other promotional devices upon any portion or portions of the Property without regard to their size, aesthetic appeal or other project developed by Declarant (or its designee) to which such items relate; or

(f) Prevent Declarant or Declarant's Permittees from utilizing the Common Properties and other areas of the Property for the driving, storage or use of motor and construction vehicles and apparatus of any nature deemed necessary or proper by it or them for the construction, sale, leasing, maintenance or repair of the Property.

Section 10.15. EFFECT ON DECLARANT• SELECTIVE RELIEF. In general, the restrictions and limitations set forth in this Article shall not apply to Declarant or to Townhomes owned by the Declarant, nor to Mortgagees or Townhomes owned by Mortgagees. Declarant shall specifically be exempt from any restrictions that interfere in any manner whatsoever with Declarant's plans for the development, construction, sale, lease or use of the Property and to the Improvements therein. Declarant shall be entitled to injunctive relief for any actual or threatened interference with its rights under this Article X, in addition to whatever remedies at law it might be entitled to effect. The Association shall have the power (but not the obligation) to grant relief in particular circumstances from the provisions of specific restrictions contained in this Article X for good cause shown.

Section 10.16. OUTSIDE INSTALLATIONS. No radio station or short-wave operators of any kind shall operate from any Townhome. No exterior radio antenna, television antenna, or other antenna of any type shall be erected or maintained upon the Properties and Improvements thereon, other than satellite dishes eighteen (18") inches or less in diameter, subject to reasonable restrictions as may be imposed by the Association, to the extent permitted by law. Master antenna or antennae, cable television antenna or future telecommunications equipment may be provided for the use of Owners, as approved by Declarant or the Board.

Section 10.17. INSURANCE RATES. Nothing shall be done or kept in the Properties or Improvements thereon which will increase the rate of insurance on any property insured by the Association without the approval of the Board; nor shall anything be done or kept in the Properties or Improvements thereon which would result in the cancellation of insurance on any property insured by the Association.

Section 10.18. DRILLING. No drilling, development operations, or mining operations of any kind shall be permitted upon the Property, nor shall wells, tanks, tunnels or mineral excavations or

shafts be permitted. No derrick or other structure designed for use in boring for water or other materials shall be erected or maintained on the Property.

Section 10.19. USE OF CONSERVATION EASEMENT AREAS. The Conservation Easement Areas, including but not limited to, the Saltponds and Natural Vegetation Areas and the Natural Vegetation Area, as such are designated on the Site Plan. are intended to be retained in their natural, vegetative, hydrolic, scenic, open agricultural or wooded condition and to be retained as suitable habitat for fish, plants or wildlife, to be retained as suitable habitat for fish, plants or wildlife, to be maintained in perpetuity in its natural wetlands state. In accordance with

Doc" 191304

1735

the Conservation Easement, except for restoration, creation, enhancement, maintenance and monitoring activities. or surface water management improvements, which are permitted or required by the SFWMD Permit. In accordance with the SFWMD Permit and the Conservation Easement, the following activities are prohibited in or on the Conservation Easement Areas:

a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

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

c. Removal or destruction of trees, shrubs. or other vegetation, except for the removal of exotic or nuisance vegetation in accordance with a SFWMD approved maintenance plan;

d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

e. Surface use except for purposes that permit the land or water area to remain in its natural condition:

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to. ditching, diking and fencing;

g. Acts or uses detrimental to such aforementioned retention of land or water areas;

h. Acts or uses which are detrimental to the preservation of any features or aspects of the Conservation Easement Area having historical or archaeological significance.

The Declarant reserves the right, but shall not be obligated, to install an elevated walkway and gazebo within the Salt Pond and Natural Vegetation Area, prior or subsequent to turnover. Architectural Committee approval shall not be required for the installation of such walkway or gazebo.

Section 10.20. FNES. In addition to the means for enforcement provided elsewhere herein, the Association shall have the right to assess fines against a Townhome Owner or its guests. relatives or lessees, in the manner provided herein. Such fines shall be collectible as a Special Assessment.

(a) The Board of Directors shall appoint a Covenants Enforcement Committee which shall be charged with determining where there is a probable cause that any of the provisions of the Declaration; the Articles of Incorporation, the By-Laws, or the rules and regulations of the Association are being or have been violated. In the event that the Covenants Enforcement Committee determines an instance of such probable cause, it shall report same to the Board of Directors. The Board of Directors shall thereupon provide written notice to the person alleged to be in violation, and the Owner of the Townhome which that person occupies if that person is not the owner, of the specific nature of the alleged violation and of the opportunity

.•890355-4

DecN 1913ø4

2091 113B

for a hearing before the Board of Directors upon a request made within five (5) days of the sending of the notice. The notice shall also specify, and it is hereby provided, that each recurrence of the alleged violation or each day during which it continues shall be deemed a separate offense, subject to a separate fine not to exceed Twenty Five and 00/100 (\$25.00) Dollars or the maximum amount allowed by law for each offense. The notice shall further specify, and it is hereby provided, that in lieu of requesting a hearing, the alleged violator or Townhome Owner may respond to the notice, within five (5) days of its sending, acknowledging in writing that the violation occurred as alleged and promising that it will henceforth cease and will not recur, and that such acknowledgement and promise. and performance in accordance therewith, shall terminate further enforcement activity of the Association with regard to the violation.

(b) If a hearing is requested in a reasonably timely manner, the Board of Directors shall hold same. and shall hear any defense to the charges of the Covenants Enforcement Committee, including any witnesses that the alleged violator, the Townhome Owner, or the Covenants Enforcement Committee may produce. Any party at the hearing may be represented by counsel.

(c) Subsequent to any hearing. or if no hearing is timely requested and if no acknowledgement and promise is timely made, the Board of Directors shall determine whether there is sufficient evidence of a violation or violations as provided herein. If the Board of Directors determines that there is sufficient evidence, it may levy a fine for each violation in the amount provided herein.

(d) A fine pursuant to this Section shall be assessed against the Townhome which the violator occupied at the time of the violation. whether or not the violator is an owner of that Townhome, and shall be collectible in the same manner as any other Special Assessment. including by the Association's lien rights a.s provided in the Declaration. Nothing herein shall be construed to interfere with any right that a Townhome Owner may have to obtain from a violator occupying the Townhome payment in the amount of any fine or fines assessed against that Townhome.

(e) Nothing herein shall be construed as a prohibition of or a limitation on the right of the Board of Directors to pursue other means to enforce the provisions of the various homeowners and Association's documents: including but not limited to legal action for damages or injunctive relief.

ARTICLE XI. INSURANCE AND CASUALTY DAMAGE

Section 11.1. BUILDINGS AND COMMON PROPERTIES. The Association shall keep all Buildings and the Improvements and fixtures located upon the Common Properties insured against loss or damage by fire and wind in an amount not less than one hundred percent (100%) of the full insurable replacement value thereof, or in an amount so obtainable if 100% replacement value is unobtainable, excluding foundation and excavation costs and a commercially reasonable deductible as determined by the Board. The Board shall obtain flood insurance with the National Flood Insurance Program (NFIP) in an amount not less than one hundred percent (100%) of the full insurable replacement value thereof, or in an amount so obtainable if 100% replacement

.890355-4Doc# 1501304

2091 Pew 1737

value is unobtainable, including foundation and footing, and a commercially reasonable deductible as determined by the Board. Each Building shall be so insured, consistent with the obligations of the Association pursuant to Section 8.1, and limited to the exteriors of the Buildings, including but not limited to, exterior walls, roofs, doors and hurricane windows, that part of the Building within the interior of party walls shared by Townhomes, but excluding all other parts of the Townhome including, without limitation, all furniture, furnishings, floor coverings, wall coverings and ceiling coverings or other personal property owned, supplied or installed by Townhome Owners or tenants of Townhome Owners, and also excluding the following equipment if it is located within a Townhome and the Townhome Owner is required to repair or replace such equipment: electrical fixtures, appliances, air conditioner or heating equipment, water heaters and built-in cabinets. The Association may elect to obtain blanket policies. The Association may also insure any other property whether real or personal, owned by the Association, against loss or damage by fire and such other hazards (including wind and flood) as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. Each Owner will be assessed for the cost of such insurance as determined by the Board of Directors as a portion of the Common Assessments. The insurance coverage with respect to the Common Properties and Buildings shall be written in the name of the Association and the proceeds thereof shall be payable to it. Subject to the provisions of Article XI, insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are Common Expenses to be included in the Common Assessments made by the

Association. The foregoing provisions of this Section 1 1.1 notwithstanding, in the event part or all of the insurance required hereunder with respect to party walls and exterior walls, roofs, and impact resistant windows ceases to be available to the Association at a reasonable cost, the Board may, in its sole discretion, terminate or otherwise allow such insurance coverage to end, provided that the Board give written notice to all Owners of this at least sixty (60) days prior to the ending of such coverage. The Owners shall in such event purchase and maintain such policies of insurance in an amount not less than the full replacement cost.

Section 1 1.2. REPLACEMENT OR REPAIR OF PROPERTY. In the event of damage to or destruction of any part of the Common Properties, or other property to be maintained by the Association, the Association shall repair or replace the same from the insurance proceeds available, subject to the provisions of Article XI of this Declaration. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may take a Reconstruction Assessment against all Dwelling Units to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other Common Assessments made against such Dwelling Unit Owners, subject to the provisions of Article VI of this Declaration.

Section 1 1.3. WAIVER OF SUBROGATION. As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Owners, Declarant, and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of, or breach of, any agreement by said persons, but only to the extent that insurance proceeds are received in compensation for such loss.

Section 1 1.4. LIABILITY AND OTHER INSURANCE. The Association shall obtain comprehensive public liability insurance, including medical payments and malicious mischief, in such limits as it shall deem desirable, insuring against liability for bodily injury, death and

:8903554

Dee" 1301304

zøst 1738

property damage arising from the activities of the Association or with respect to property under its jurisdiction, including, if obtainable, a cross-liability endorsement insuring each Owner against liability to each other Owner. The Association may elect to obtain blanket policies. The Association may also obtain Workmen's Compensation insurance and other liability insurance as it may deem desirable, insuring each Owner and the Association, and Board of Directors and the limits increased in its discretion. The Board may also obtain such errors and omissions insurance, indemnity bonds, fidelity bonds and other insurance as it deems advisable, insuring the Board, the Committee, and the Management Company against any liability for any act or omission in carrying out their obligations hereunder, or resulting from their membership on the Board or on any committee thereof.

Section 11.5. DISTRIBUTION OF PROCEEDS. Proceeds of insurance policies received by the Association shall be distributed in the following manner:

(a) Expenses of the Association. All expenses of the Association shall be paid first or provision made for such payment.

(b) Reconstruction or repair. If the damage for which the proceeds were paid is to be repaired, reconstructed or restored, the remaining proceeds shall be paid to defray the cost thereof, as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the Owners, all remittances to Owners and their Mortgagees being payable jointly to them. This is a covenant for the benefit of any such Mortgagees and may be enforced by them. Said remittance shall be made solely to a Mortgagee, when required by such Mortgagee, whose mortgage provides that it has the right to require application of the insurance proceeds to the payment or reduction of its mortgage debt.

(c) Failure to reconstruct or repair. If the damage for which the proceeds were paid is not to be repaired and restored, the remaining proceeds shall be distributed to the Owners. all remittances to Owners and their Mortgagees being payable jointly to them. This is a covenant for the benefit of any Mortgagee and may be enforced by him. Said remittance shall be made solely to a Mortgagee, when required by such Mortgagee, whose mortgage provides that it has the right to require application of the insurance proceeds to the payment of its mortgage debt. In the event of the loss or damage to personal property belonging to the Association, and should the Board determine not to replace such personal property as may be lost or damaged, the proceeds shall be disbursed to the Owners as surplus in the manner elsewhere stated.

(d) Less Than "Very Substantial" Damage. Where a loss or damage occurs to the Common Properties or other properties insured by the Association, but said loss is less than "very substantial" (as hereinafter defined), it shall be obligatory upon the Association and the Owners to repair, restore, and rebuild the damage caused by said loss. Where such loss or damage is less than "very substantial":

(i) The Board shall promptly obtain reliable and detailed estimates of the cost of repairing and restoration; and

(ii) The Board shall use the insurance proceeds and promptly negotiate and contract for the repair and restoration of the damage.

:890355-4

(iii) If the net proceeds of the insurance are insufficient to pay for the estimated cost of restoration and repair (or for the actual cost thereof if the work has actually been done), the Association shall promptly, upon determination of the deficiency, levy a Reconstruction Assessment for the deficiency against all Owners.

(iv) In the event the insurance proceeds are sufficient to pay for the cost of restoration and repair, or in the event the insurance proceeds are insufficient but additional funds are raised by Reconstruction Assessments within ninety (90) days after the casualty so that sufficient funds are on hand to fully pay for such restoration and repair, then no Mortgagee shall have the right to require the application of insurance proceeds to the payment of its loan; provided, however, that this provision shall be waived by the Board in favor of any Mortgagee upon written request made within ten (10) days after the casualty. In such event, such Mortgagee shall only be entitled to the portion of the proceeds that would be applicable to the property on which it holds a mortgage and not to the portion that would be applicable to the Common Properties. To the extent that any insurance proceeds are required to be paid over to such Mortgagee, the respective Owner shall be obliged to replenish the funds so paid over, and said Owner and the Townhome shall be subject to being charged for such sum.

(e) "Very Substantial" Damage. As used in this Declaration, the term "very substantial" damage shall mean loss or damage whereby seventy-five (75%) or more of the total amount of insurance coverage placed as per Section 1 1.1 becomes payable. Should such "very substantial" damage occur, then:

(i) The Board shall promptly obtain reliable and detailed estimates of the cost of repair and restoration thereof.

(ii) The provisions of Section 1 1.5(d) shall not be applicable to any Mortgagee who shall have the right, if its mortgage so provides, to require application of the insurance proceeds to the payment or reduction of its mortgage debt. The Board shall ascertain as promptly as possible the net amount of insurance proceeds available for restoration and repair.

(iii) Thereupon, a membership meeting shall be called by the Board, to be held no later than sixty (60) days after the casualty, to determine the wishes of the membership with reference to the abandonment of Common Properties, subject to the following:

A. If the net insurance proceeds available for restoration and repair, together with the funds advanced by Owners to replace insurance proceeds paid over to Mortgagees, are sufficient to cover the cost thereof, so that no Reconstruction Assessment is required, then the Common Properties shall be restored and repaired, unless two-thirds (2/3) of the total votes of the Members and a majority of the Mortgagees holding mortgages shall vote to abandon the Common Properties, in which case it will be so abandoned.

B. If the net insurance proceeds available for restoration and repair, together with funds advanced by Owners to replace insurance proceeds paid over to Mortgagees, are not sufficient to cover the costs thereof, so that a Reconstruction Assessment will be required, then if two-thirds (2/3) of the total votes of the Members and a majority of the Mortgagees holding mortgages vote against such Reconstruction Assessment and vote to abandon the Common Properties, then it shall

be so abandoned. In the event two-thirds (2/3) of the total votes of the Members and a majority of the Mortgagees holding mortgages do not vote

:890355-4

DoeN 15013ø4

P" 1740

to abandon the Common Properties, or to the extent the damage is to that part of a Building for which the Association is responsible, the Association shall immediately levy such Reconstruction Assessment. and thereupon the Association shall proceed to negotiate and contract for such repairs. The proceeds shall be disbursed by the Association for the repair and restoration of the property, as provided in Section 1 1.5(b) above. To the extent that any insurance proceeds are paid over to such Mortgagee. and in the event it is determined not to abandon the Common Properties and to vote a Reconstruction Assessment, the Owner shall be obliged to replenish the funds so paid over to the Mortgagee, and said Owner shall be subject to Special Assessments for such sum.

c. In the event any dispute shall arise as to whether or not "very substantial" damage has occurred, it is agreed that such a finding made by the Board shall be binding upon all Owners and Mortgagees.

(D Surplus. It shall be presumed that the first monies disbursed in payment of costs or repair and restoration shall be from the insurance proceeds; and if there is a balance in the funds held by the Board after the payment of all costs of the repair and restoration, such balance may be retained as a reserve, or wholly or partly distributed, at the discretion of the Board. In the event of distribution. then the Board shall distribute any such balance to the Owners and their Mortgagees jointly.

(g) Insurance Trustee. Notwithstanding anything contained herein to the contrary, the Board shall have the right, but not the obligation, to select an insurance trustee. who shall be a banking institution having trust powers and doing business in the State of Florida. The sole duty of the insurance trustee shall be to receive insurance proceeds as are paid and hold same in trust and to disburse same upon written direction from the Board.

(h) Plans and Specifications. Any repair and restoration must be substantially in accordance with the plans and specifications for the original improvement, or as the improvement was last constructed, or according to the plans approved by the Board. If any material or substantial change is contemplated. the approval of all Mortgagees shall also be required.

(i) Association's Power to Compromise Claim. The Association is hereby irrevocably appointed agent for each Owner for the purpose of compromising and .settling claims arising under insurance policies purchased by the Association, and to execute and deliver releases therefor upon the payment of claim.s.

Section 1 1.6. PROPERTY AND CASUALTY [NSURANCE ON TOWNHOMES.

Property and casualty insurance on Townhomes, less and except those portions insured by the Association, shall be maintained by each respective Owner and shall be in an amount not less than full replacement cost of the Townhome's replacement cost, and a copy of each such insurance policy and any amendments thereto shall be provided to the Association. Contents insurance and liability coverage

BkN 201

for each Townhome shall not be required by the Association, although such insurance is recommended. In the event that the Association fails or otherwise ceases to maintain insurance covering the roof, exterior walls, party walls and windows, then the Owners shall be responsible to carry same, be in an amount not less than the full replacement cost therefor.

Doc#tsø13ø4

1741

:890355-4

ARTICLE XII. MORTGAGEE PROTECTION

Section 12.1. ADDITIONAL RIGHTS. In addition to all other rights herein set forth and with respect to Improvements upon the Properties, Institutional First Mortgagees shall have the following rights (and to the extent these added provisions conflict with any other provisions of the Declaration), these added provisions shall control):

(a) Each First Mortgagee of a Mortgage encumbering any Townhome, at its written request, is entitled to written notification from the Association of any default by the Mortgagor of such Townhome in the performance of such Mortgagor's obligations under this Declaration, the Articles of Incorporation of the Association or the By-Laws of the Association, which default is not cured within thirty (30) days after the Association learns of such default.

(b) Unless at least seventy-five percent (75%) of the First Mortgagees (based upon one vote for each Mortgage owned), and seventy-five percent (75%) of the Owners have given their prior written approval, neither the Association nor the Owners shall:

(l) by act or omission seek to sell or transfer the Common Properties and the Improvements thereon which are owned by the Association; provided, however, that the granting of easements for utilities or for such other purposes consistent with the intended use of such property by the Association, or the Declarant or the transfer of the Common Properties to an unincorporated association of the Owners in accordance with the terms hereof shall not be deemed a transfer within the meaning of this clause;

(2) change the method of determining the obligations, Assessments, dues or other charges that may be levied against a Townhome;

(3) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of any portion of the Properties;

(4) fail to maintain fire and extended coverage on insurable portions of the Common Properties on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurance value (based on current replacement cost) less such reasonable deductions as the Board may deem appropriate;

(5) use hazard insurance proceeds for losses to any Common

Properties or Buildings for other than the repair, replacement or reconstruction of such Improvements (or for reserves for the repair, replacement or reconstruction of the Properties); or

(6) amend this Declaration or the Articles or By-Laws of the Association in such a manner that the rights of any Mortgagee will be materially affected.

(c) Mortgagees shall upon written request to the Association have the right to (i) examine the books and records of the Association during normal business hours, including current copies of the Declaration and its exhibits, and current rules and regulations; (ii) receive

:890355-4

asø13ø4

2M

1742

an unaudited financial statement of the Association within ninety (90) days after each of its fiscal years closes; (iii) receive an endorsement to each insurance policy covering the Properties that requires the Mortgagee to be given any notice of cancellation provided for in the policy; (iv) receive from the Association written notice of any meeting of the Association's membership and to attend any such meeting; and (v) receive timely written notice of casualty damages to or condemnation of any Townhome and upon which it has a mortgage.

(d) All Mortgagees who have registered their names with the Association shall be given (i) thirty (30) days' written notice prior to the effective date of any proposed, material amendment to this Declaration or the Articles or By-Laws of the Association and prior to the effective date of any termination of any agreement for professional management of the Common Properties following a decision of the Owners to assume self-management of the Common Properties; and (ii) immediate notice following any damage to the Common Properties whenever the cost of reconstruction exceeds Ten Thousand Dollars (\$ 10,000.00), and as soon as the Board learns of any threatened condemnation proceedings or proposed acquisition of any portion of the Common Properties.

(e) Mortgagees may, jointly and individually, pay taxes or other charges which are in default and which may or have become a charge against any Common Properties facilities and may pay any overdue premiums on hazard insurance policies. or secure new hazard insurance coverage on the lapse of a policy, for such property, and Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association and the appropriate Owners thereof.

ARTICLE XIII.

ENCROACHMENTS: EASEMENTS

Section 13.1. ENCROACHMENTS. If (a) any portion of the Common Properties encroaches upon any other portion of the Properties or Retail Property; (b) any other portion of the Properties (including, but not limited to the roof of any Building encroaches upon the Common Properties; or (c) any encroachment shall hereafter occur as the result of (i) construction of any building or other Improvements; or (ii) settling or shifting of a building or other Improvements; or (iii) any alteration or repair to the Properties; or (iv) any repair or

BkN 201

restoration of any building or other Improvements or any of the Properties after damage by fire or other casualty or any taking of condemnation or eminent domain proceedings of all or any portion of any building, Improvements or Property, then in any such event, a valid easement shall exist for such encroachment and for the maintenance of same so long as the structure causing the encroachment shall stand.

Section 13.2. WIRES DUCTS VENTS CABLES CONDUITS _____
PUBLIC UTILITY LINES ETC. Without limiting the generality of the foregoing, the Declarant or other providing utility or service company may install, maintain and replace wires, pipes, circuits, lines, conduits, and cable television equipment or any future telecommunications equipment on, in, under and/or beside the roofs and exterior walls of Townhomes and/or the buildings in which such Townhomes are located. The Declarant is expressly authorized to execute and record whatever instruments it deems necessary or desirable to effect or evidence the easement created by this Section, and shall be considered an agent of each Townhome Owner for the purposes of

.Doe"**150130**

:890355-4

1743

executing and recording any such instrument with respect to any portion of the Properties owned by that Owner. To be effective, any such instrument need only be executed by Declarant.

Section 13.3. EASEMENTS OF SUPPORT. The Declarant and Declarant's Permittees shall have blanket easements, licenses, rights and privileges of a right-of-way in, through, over, under and across the Common Properties, the Property and other property comprising SeaSide Key West Residences, owned by Declarant for the purpose of completing construction, leasing and sale of Townhomes and facilities upon the Property and, towards this end. Declarant reserves the right to grant and does hereby reserve easements and rights-of-way in, through, under, over and across the Common Property, and other property comprising SeaSide Key West Residences, owned by Declarant for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage, cable television, and other utilities and for any other materials or services necessary for the completion of the work. The Declarant, its successors, employees, assigns and purchasers, also reserve the right to share, connect with and make use of the utility lines, electric, telephone, future telecommunications equipment, wires, pipes, conduits, cable televisions, sewers and drainage lines which may from time to time be in or along the streets and roads or other areas of the Property.

The Declarant and Declarant's Permittees shall have an easement in, on, over and across the Property, in connection with the development of SeaSide Key West Residences or any similar projects which may be developed by Declarant in the vicinity thereof for (i) construction, installation, maintenance, ingress to and egress from and the right to use (including the right to use in common with other Townhome Owners) any open parking spaces and share and tap into all storm drainage facilities, water, sewer and other utility lines, pipes, conduits, flues, ducts, wires and cable television and other utility lines servicing or located on the Property, provided such easement and use does not prevent or unreasonably interfere with the use of the Property as intended, and (ii) ingress to and egress from all land areas of the Common Properties (including the private paved areas adjacent to or serving the access roads) and the use of said land areas (in common with Owners) for any lawful purpose, and (iii) to erect, maintain, repair and replace from time to time one or more signs on the Common Properties for the purposes of advertising the sale of Townhomes upon all or any portion of the Property and the leasing of space in any such Townhome and for the purpose of advertising the sale of Townhomes which may be constructed by Declarant on land in the vicinity of the Property. Declarant, its successors, assigns, invitees, licensees, contractors and employees reserve the right to establish, grant and create easements for any additional underground electric, transformer, amplifier, gas, cable television, telephone, water, storm drainage, sewer or other utility lines and appurtenances in, under, over and/or through the Property, to relocate any existing utility, sewer and drainage easements in any portion of the Property to hook up to, joint in with or share with any and all existing utilities' pipes, wires, and lines and to dedicate any or all of such facilities to any governmental body, public benefit corporation or utility company if the Declarant shall deem it necessary or desirable for the proper operation and maintenance of the Property or any portion thereof or for the general health or welfare of any Owner, provided that such additional utilities or the relation of existing utilities or the sharing

of such utilities will not prevent or unreasonably interfere with the use of the Townhomes for purposes. Any utility company or public benefit corporation furnishing services to the Property, and the employees and agents of any such company or corporation, shall have the right of access to the Common Property in furtherance of such easements, provided such right of access is exercised in such a manner as not to unreasonably interfere with the use of any Townhome.

Doe" is 01304

BkN 2091 1744

:890355-4

Section 13.4. RETAIL PROPERTY EASEMENT. Declarant hereby grants to the owner of the Retail Property a perpetual, non-exclusive easement over and across those portions of the Common Properties which abut the Retail Property for purposes of (i) constructing, maintaining, repairing and reconstructing the buildings located on the Retail Property, and (ii) installing, replacing and maintaining landscaping on the Retail Property.

ARTICLE XIV. WORKING CAPITAL FUND

Section 14.1. At the time the Declarant sells and closes a Lot to a purchaser, the purchaser shall make a contribution to the working capital fund in a sum equal to two (2) times the monthly Common Assessment payment. This contribution is to be paid to the Association and shall not be considered as an advance maintenance payment nor as funds of the Association. The working capital funds may be used for the purpose of initial maintenance items, capital expenses, utility deposits, permits, licenses, taxes, State of Florida corporate fees, and advance insurance premiums for insurance policies and coverages pursuant to this Declaration, and any amendments thereto. The foregoing list of purposes shall not be deemed to be all-inclusive.

ARTICLE XV. RESTRICTED OWNERSHIP

Section 15.1. RESTRICTED OWNERSHIP TOWNHOMES. Those twenty nine (29) Townhomes identified on Exhibit "G" attached hereto and made a part hereof are hereby designated by Declarant as Restricted Ownership units (collectively "Restricted Ownership Townhomes"), and shall be subject to those Restricted Ownership restrictions as required by the Development Agreement which restrictions affect the use and transfer of said Restricted Ownership Townhomes in accordance with the terms and provisions and for the duration as set forth in therein and as reiterated in this Article XV.

The Agreement for Purchase and Sale between Declarant and purchasers of Restricted Ownership Townhomes shall include a copy of the Ordinance (defined in Section 15.2 below) or otherwise include the guidelines and restrictions relative to such Townhomes. The deed conveying title to the Townhome shall include the same or similar restrictions that shall be recorded with the deed in the Public Records of Monroe County.

Section 15.2. RESTRICTED OWNERSHIP RESTRICTIONS. The following restrictions shall apply to the Restricted Ownership Townhomes only:

The Property shall contain up to 29 permanent Townhomes of "Restricted Ownership" as defined in City of Key West Ordinance 86-20, or its successors (the "Ordinance"). The sales price of such Restricted Ownership Townhomes shall conform to the requirement set forth in the Comprehensive Plan, Policy 3-1.1.3, as of 7/1/97. In the purchase of said Restricted Ownership Townhomes, the affordable criteria shall apply for a period of thirty (30) years following the original purchase date. Such permitted resale price shall include all costs normally associated with initial acquisition and finance costs as well as any costs of resale including, but not limited to, sales commissions, closing costs, and loan origination costs. The initial, and subsequent, sale price calculation shall utilize the yearly projected U.S. Government Census Bureau 'Median

:890355-4

ts01304

BkN

1143

Household Income' data for Monroe County, Florida beginning 1/1/98 for the baseline rate. [n no case will this subsequent calculation fall below the beginning baseline rate factor. For a period of thirty (30) years after the initial sale, the essential language of Paragraph 4(m) of the Development Agreement shall be included in each deed transferring ownership of a Restricted Ownership Townhome as a covenant to run with the land. Declarant shall have the right to amend and modify the Developers Agreement from time to time, provided that it receives appropriate municipal authority and consent. These modifications may include language clarifying the restrictions imposed upon Owners or Restricted Ownership Townhomes.

ARTICLE XVI GENERAL PROVISIONS

Section 16.1. COVENANT RUNNING WITH THE LAND. All provisions of this Declaration shall, to the extent applicable and unless otherwise expressly herein provided to the contrary, be construed to be covenants running with the Townhomes, the Property, and with every part thereof and interest therein, and where expressly noted as such, with the lands of SeaSide Key West. Residences and all of the provisions hereof shall be binding upon and inure to the benefit of the Declarant and subsequent owner(s) of the Townhomes or any part thereof, or interest therein, and their respective heirs, personal representatives, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public, unless specifically provided herein to the contrary. All present and future owners and tenants and occupants of the Townhomes shall be subject to and shall comply with the provisions of this Declaration and such Articles, By-Laws and applicable rules and regulations as they may from time to time be amended. The acceptance of a deed or conveyance of Townhome, or the entering into a lease of, or occupancy of any Townhome shall constitute an adoption and ratification by such Owner, tenant or occupant of the provisions of this Declaration, and the Articles, By-Laws and applicable rules and regulations of the Association, as they may be amended from time to time, including, but not limited to, a ratification of any attorney-in-fact provisions contained therein. In the event that any easements granted herein shall fail for want of a grantee in being or for any other purpose, the same shall constitute and be covenants running with the land.

Section 16.2. DURATION. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, the Association or the Owner of any Lot subject to this Declaration and their respective legal

representatives, heirs, successors and assigns. for a term of ninety-nine (99) years from the date this Declaration is recorded, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of ninety percent (90%) of the Lots and seventy-five percent (75%) (in dollar amount) of the Institutional Lznders of record has been recorded, agreeing to change or terminate this Declaration in whole or in part.

Section 16.3. ENFORCEMENT. This Declaration, the Articles of Incorporation and the By-Laws may be enforced by the Association as follows:

(a) Breach of any of the covenants or restrictions contained in the Declaration, Articles or the By-Laws and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings by any Owner. the Declarant. by the Association or the successors-in-interest of the Association. Any judgment tendered in any action or

tsøi3ø4

:890355-4PgN 1746

proceeding pursuant hereto shall include a sum for attorneys' fees in an amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, late charges, interest thereon, costs of collection and court costs.

(b) The result of every act or omission whereby any of the covenants or restrictions contained in this Declaration, the Articles or the By-Laws are violated in whole or in part is hereby declared to be a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result and may be exercised by any Owner, Declarant and/or the Association or their successors-in-interest.

(c) The remedies herein provided for breach of the covenants or restrictions contained in this Declaration, Articles or in the By-Laws shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(d) The failure of the Association to enforce any of the covenants contained in this Declaration, Articles or in the By-Laws shall not constitute a waiver of the Association's right to enforce the same thereafter.

(e) A breach of the covenants, conditions or restrictions contained in this Declaration, the Articles or in the By-Laws shall not affect or impair the lien or charge of any Mortgage made in good faith and for value on any Townhome, provided, however, that any subsequent Owner of such Townhome shall be bound by said covenants, whether such Owner's title was acquired by foreclosure sale or otherwise.

Section 16.4. SEVERABILITY. Invalidation of any one of the provisions, covenants or restrictions by judgment or court order shall in no way affect any other covenants, restrictions or provisions, which shall remain in full force and effect.

Section 16.5. INTERPRETATION. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine and neuter shall each include the masculine and feminine and neuter.

Section 16.6. AMENDMENTS. This Declaration may be amended by the Association as follows: (a) by the affirmative vote or written consent of the Owners holding not less than seventy-five percent (75%) of the voting power of the Class A Members and the affirmative vote of the Class B Member (so long as Class B Member exists); or (b) by the affirmative vote of the Class B Member; provided, however, that no amendment shall be permitted which has a material adverse effect upon substantial rights of the Declarant or a Mortgagee without the prior written consent of the Declarant or Mortgagee, as appropriate. Without in any way limiting the generality of clause (b) above, as long as it is the Declarant Member or owns one or more Townhomes, no amendment shall be permitted without the prior written consent of Declarant.

Section 16.7. NO PUBLIC RIGHT OR DEDICATION. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Common Properties to the

public, or for any public use (except to the extent that public water and sewer lines are dedicated).

~~Doc#~~15M3ø4

Psu 1747

:8903554

Section 16.8. CONSTRUCTIVE NOTICE AND ACCEPTANCE. Every person who owns, occupies any right, title, estate or interest in or to any Townhome or other portion of the Property does and shall be conclusively deemed to have consented to and agreed to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these re.strictions is contained in the instrument by which such person acquired an interest in such property.

Section 16.9. NOTICES. Any notice permitted or required to be delivered by Declarant or the Board of Directors as provided herein shall be in writing and may be delivered either personally or by regular mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice. or to the residence of such person at the Property if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association. Notices by Owners to the Declarant or Board of Directors shall be by certified mail, return receipt requested, and shall only be deemed to have been given upon receipt thereof by the Declarant or Board, as the case may be.

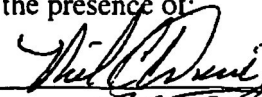
Section 16.10. NO REPRESENTATIONS OR WARRANTIES. No representations or warranties of any kind, express or implied, have been given or made by the Declarant or its agents or employees in connection with any portion of the Common Properties, its physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance. taxes or regulation thereof, except as specifically and expressly set forth in this Declaration.

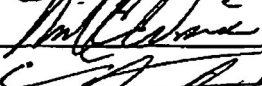
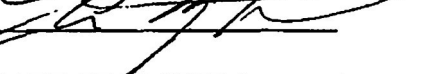
Section 16.1 1. LIMITATION UPON ACTION OF ASSOCIATION. The Association shall not commence any legal proceedings on its behalf or on behalf of any or all Owners against third parties without the prior written consent of at least seventy five (75%) percent of all Owners other than the Declarant. Action to collect assessments due under this Declaration and to foreclose liens shall be excluded from the immediately preceding sentence. Prior to instituting any such legal proceeding against the Declarant. the Association shall provide the Declarant with the written consent of the Owners as referenced above at least thirty (30) days before initiating any such legal proceedings.

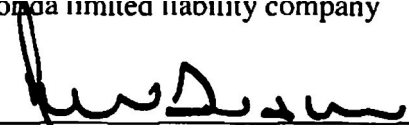
•.890355-4

DECLARANT has executed this Declaration on the date first written above.

Signed, sealed and delivered KEY WEST SEASIDE, LLC, in the presence of • a Florida limited liability company

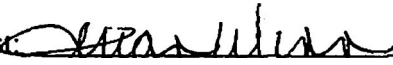



a limited liability company

STATE OF FLORIDA)

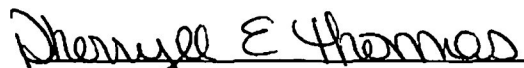
SS:

By:
Robert A. Butler,
Managing Member
Attest: 
Jerian M. Winn, Secretary

COUNTY OF MONROE)

THE FOREGOING Declaration of Covenants and Restrictions was acknowledged before me this day of February, 2005, by ROBERT A. BUTLER, as Managing Member, and JERIAN M. WINN, as Secretary of KEY WEST SEASIDE, LLC, a Florida limited liability company, to me well known and known to me to be the person.s described in and who executed the foregoing instrument and acknowledged to and before me that they executed said instrument on behalf of the said corporation in the capacities and for the purposes therein expressed.

WITNESS my hand and official seal in the State and County last aforesaid on this day of Feb., 2005.


NOTARY PUBLIC

State of Florida at Large

My Commission Expires:

Sherryl E. Thomas -
Commission #DD204232
• : ? Expires: Apr 16, 2007
Bonded Thru
Atlantic Bonding Co.. Inc

Dee' 1501304

1749

•.8903554

This page has been left blank intentionally.

42

1sø13N
lis
ø

JOINDER

THE SEASIDE KEY WEST RESIDENCES HOMEOWNERS ASSOCIATION, NC.. a Florida corporation not for profit, hereby agrees to accept all the benefits and all of the duties, responsibilities, obligations and burdens imposed upon it by the provisions of this Declaration and Exhibits attached hereto.

201

IN WITNESS WHEREOF, the SEASIDE KEY WEST RESIDENCES HOMEOWNERS ASSOCIATION, INC. has caused these presents to be signed in its name by its proper officers and its corporate seal to be affixed this ; 10 day of

Signed, sealed and delivered
in the presence of:

Monroe E. Thomas
[Signature]
[Signature]
Monroe E. Thomas

SEASIDE KEY WEST RESIDENCES
HOMEOWNERS ASSOCIATION, INC., a Florida
Corporation not-for-profit

By:

[Signature]
Robert A. Butler, President

Attest:

[Signature]
Jerian M. Winn, Secretary

STATE OF FLORIDA

COUNTY OF MONROE)

The Dec ^{1st} foregoing joinder was acknowledged before me this _____ day of _____, 2006, by Robert A. Butler and Jerian M. Winn, respectively, the President and Secretary of SEASIDE KEY WEST RESIDENCES HOMEOWNERS ASSOCIATION, INC., a Florida corporation not-for-profit, on behalf of said corporation.

[Signature]

NOTARY PUBLIC

State of Florida at Large

My Commission Expires:

 Sherrill E. Thomas

Commission #DD2N232

: Expires: Apr 16, 2007

Bonded 

Atlantic Bonding Co., Inc

Doew tsøi304

Pgw

2719698-1 1

43

Prepared by and after recording return to:

Grace N. Manne, Esq.

Bkß

Becker & Poliakom P.A.
3111 Stirling Road
Ft. Lauderdale, FL 33312-6525

JOINDER OF MORTGAGEE

WACHOVIA BANK, NATIONAL ASSOCIATION ("Wachovia"), holder of that certain Mortgage and Security Agreement for KEY WEST SEASIDE, LLC, a Florida Limited Liability Company, recorded in Official Records Book 1876, Page 1996, Public Records of Monroe County, Florida, as modified and supplemented by that certain Future Advance Notice and Security Document Modification Agreement dated December 10, 2004 and recorded in Official Records Book 2068, Page 1914, Public Records of Monroe County, Florida, encumbering the real property described therein, does hereby consent and join in the Declaration of Covenants and Restrictions of SEASIDE KEY WEST RESIDENCES to which this Joinder is attached.

This Joinder is made without any representation of warranty, expressed or implied by virtue of law, statute, decisional or otherwise, as to the legality or validity of the Declaration, the condition of the land and improvements constituting the common areas or their habitability, usefulness or fitness for any purpose.

WITNESSES:

WACHOVIA BANK, NATIONAL ASSOCIATION,

J. Rice Fenelle Jr.
J. Rice Fenelle Jr.
Printed Name of Witness tM-.a.uee..aa (c
Printed Name of Witness
Sylvia H. Clark

By: Michael J. Zambetti Jr.
Name: Michael J. Zambetti Jr.
Its: Sr Vice President

Doe" 1501304
201 17S2

STATE OF FLORIDA
COUNTY OF DUVAL

Bkß

The foregoing instrument was acknowledged before me this 2-q day of Dec..Z*mb-Q.Q 2004, by Michael J. Zambetti, Jr. as VCC.L eugt42..4d of Wachovia Bank, National Association, on behalf of the foregoing and who is personally known to me.

Sylvia H. Clark
Print Name: Sylvia H. Clark
Notary Public, State and County Aforesaid
My Commission _____
Expires: Commission _____
No.: _____



00482200.DOC

Dechtso1%4

1133

Bkß

SPECIFIC PURPOSE SKETCH
TO ILLUSTRATE LEGAL DESCRIPTIONS
EXHIBIT "A"
LEGAL

LEGAL DESCRIPTION - AUTORED BY THE UNDERSIGNED)

All of Parcel 35, as on the MARIE B. LEE PLAT, accordi% to the plat thereof as recor&d an Bat 4. Page 69 on 2 of 2 of the Qcor43 of Monroe Courty. Borua.

with Together

The North
No#h 540 feet of South 600 feet Of Parcel 34 as shown on PEE of cf on Iolaru of Key West. Courty. Pena, according to the P:at thereof as recorded sn Hat Book 3. Page 35 of tre of %rw-oe Co.*ty.

Less Eue* •

A part of Parcel 35. OF MARE e. LEE PLAT. accordi% to Rat 9ereoF. as cn 4. Page 69, of the of CarW. FbMa: at 5wtbeast cocœr o} saE Parcel 35. S 79' 44' 40' W the Sothh of Parcel 35 for a d3taœe oc 450.00 Feet;

N 1 5' 20' W asta•ce o} 69.04 feet to a p•at cf sad curve a central Of l l deqrees, 07 a radtoœ of 2369.93 feet aru bel% to the theme abrg sasd Curve a dbtarce Of 463.69 feet to a of tarvt; ttEœe N 2 1 • 22' 20' W for a dstaœe Of 65.09 feet to the Pant of Begnary of the

peel of lare herelruftet• described;ttterce N 2 22 2C W for a detaœe 99.13 feet; N 37' 40' E for a astaœe of 99.45 feet; tœerce S 21 • 22' 20' W br a Ostaœe of 3.53 Ceet; ttEœe N 37 • 40' a as-tzrce ot 10.00 feet; therce S 66' l 12' E of 3207 feet•.

S 2 1 • 13' 46' e a dstaœe of 10.00 feet; N

46' 14• e "or a éstaœe Of 3.33 feet;

S 2 1 • 13 46' e for a dstaœe of 86.00 feet;

S 46' 14° W for a dotaœe of 93.25 feet to a pnt of arterzcton with a curveErte sad curve, to the Sotkh*st. a radiB of 57.00

Feet. a ehord dtstarte of 47.78 feet are a :hord bearing of N 82 degrees 37 m•mRes W. br an aœe dstarce of 49.31 feet hck to tke Potnt of Beg•nnrg. AXA •Trœ RETAL ROPERY

SUBJECT TO the comervaton e—errerts

(Neò • Amvred)

The North 540 fut of South 600 feet of Parce' 34 as showm on Pht of Swvey of Larus on Islaru of West, Cou*y. Fbnda.accord"" to Rat thereof as recorded In Ptat 3. Page 35 of ttE of Florua.

(O.E 1076 Page 1957)

A part cf the Soutteasterly of Pamel 35. of MAZE e. LEE PLAT. accordi% to tte Rat herœol, as recordedIn Rat 4. Page 69. of tre Records oi

Monroe County. Fbrua:

Beginnrg at the Southeast;corrww of the sad Parce' 35. thœœe N l 1 5' 2C W abB the South of Roosevelt Boulevard, a d15taœe OF 69.04 feet to a pntn of cuve.

sad cuNe a central ar*s of 03' 24'37'. a rad;s 06 2839.93 barg to the West; theœœe Obry sa..d cuNe for an are OF 169.03 feet;

S 74° 40 IG' W for a dotaœe Of 152.73 Feet;

tierce S 05 2C W br a dstaœe o' 79.01 Feet;

S œ' 40 1 W for a of 249.4 t feet to South of Parcel 35; tEœe N 79' 44' 40' E sad SaRh Irœe of Parcel 35 'or a d"taœe Oœ 3 1 G .2e feet bz k to tee Part OF

Beginning.

SUBJECT TO the following easements:

THE UTILITY BOARD OF THE CITY OF KEY WEST

Doc# 1501304
Bk# 2091 Pg# 1794

On the Isaru 01 Key West In COUN•y•, Fhnda

A stnp of berg 20 feet of rræt 35 Z or. •Bat of urus Former+y Omed Key West mprovement, Inc.*as recorded hat 2. Page 69 of the of

Survveys Note :

tn - O.R. 1030 Page O.R. Book 1093 Page 1265. the ertlted the eut of fomedy OM•ed Key West
ts recordea 'n Hat Book 4. Page 69 0! 01. Cowty.

etU.SOUTt1 TELECOMMUNICATIOB&S, INC. O.R. t 593 I I t 6 •

Blanket public utility easement

THE I-murr BOARD OF Tt-r CITY OF KEY WEST
OR Book 161 1 age 946 • Blanut pbvbc utdty easerænt
PUBuc ACCESS EASEMENT AGREE*ÆNT
O.R. 653 654

SEASIDE DRIVE EAsax.c•NT
(Neo Almored)

A pan of Parcel 35. of MARE e. LEE MT. accordt% to the Plat thereof. as recor&a 4. 69. of the Pubic or Cowo. FZ•ua:
Canærc:ng at Sættzast of sad Parcel 35. N 10' 1 5' 20• W the South o} a dbtarte of 69.æ feet to a d

sag cuNe uav Na cenä•a' arges of 1 OT. a raåts of 2539.93 Feet aru hrg 20 be West; ttærc Nortur9 on sad :uve foran arc
detarce 496 t 4 feet Part of ægjmvy of tYz Fdbwry described ptEc acæ% ezerent•.

tt*fte nt nuon sad cæ fa- an dttstartz of 54.57 feet to a pmt of tar%t•. ttErte
N 21 • 22 1 20' W for a dtsearxe of 69.13 feet; tt•ærc S 46' J 4W for a "tarre
of 9.a3 feet;

S 21 0 3' 46• E for a dast aree of 6.00 EO a or on cuNe coæ.æe Nofthæst havrg a of 22 feet. a d'tarce OF 3 1 . I I 'ee a :hord bearing No 'th
23 degrees 46 mntes | 4

Eæt, an astau of 34.56 Feet eo a putt

S 14W a dstaxe 0° 376.21 feet to a pmt of trteræcton a on sad cuNe eo hav:rg a of 57 Feet, a
døtarce of 47.70 feet a :hord bearing North 62 degrees 37 co-ues 4B Wet. an arc "tarre of 49.3! feet to a prnt boN8ty of
Parcel 35; S 2 1 22' 20• E for a dtsearwe OF 65.09 Feet to a pmt of taryervy o} a ewW•.

cuNe a central of I I • 07'. a mdn.ß of 2309.93 feet are b" to West; on sad curve for an douree of 40.67 feet to a ot mtemecton a on sad
cwve coxæe eo havtry a Of 57 feet. a crord detarte of 47.90 feet a cnord bearing North 40 degrees I G makes 40 seca•us Eze, for an arc of 49.52
fæt;

N 4' e bra of 376.21 feet a pan of cane; tierce sad cwve eore.æe to Southwst a radiiß or 22 Feet, a ol 3 1 . I
feet arø a :hord bearing North GG degrees J 3 rrgues 46 West. foe an am astaxe of feet to a Pint of taryeæy. ttex N 2 1 • 1 3' 46' W a
destarcc of 6.00;

Eheæ N 6b'4G for a dsuree 01 9.60 feet "Ck to tre South line of Roosevelt Bovkvard æe Pant o} Beg.rxrgr.

PREPARED FOR: KEY WEST SURVEY, LLC

SIGNED

ROBERT E. REECE, PSM #9682, PROFESSIONAL SURVEYOR AND MAPPER, ID #6084

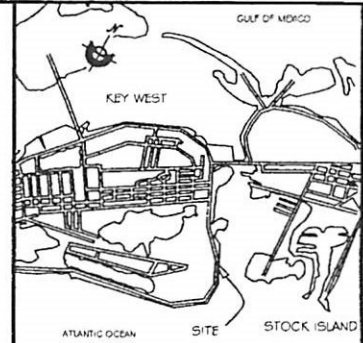
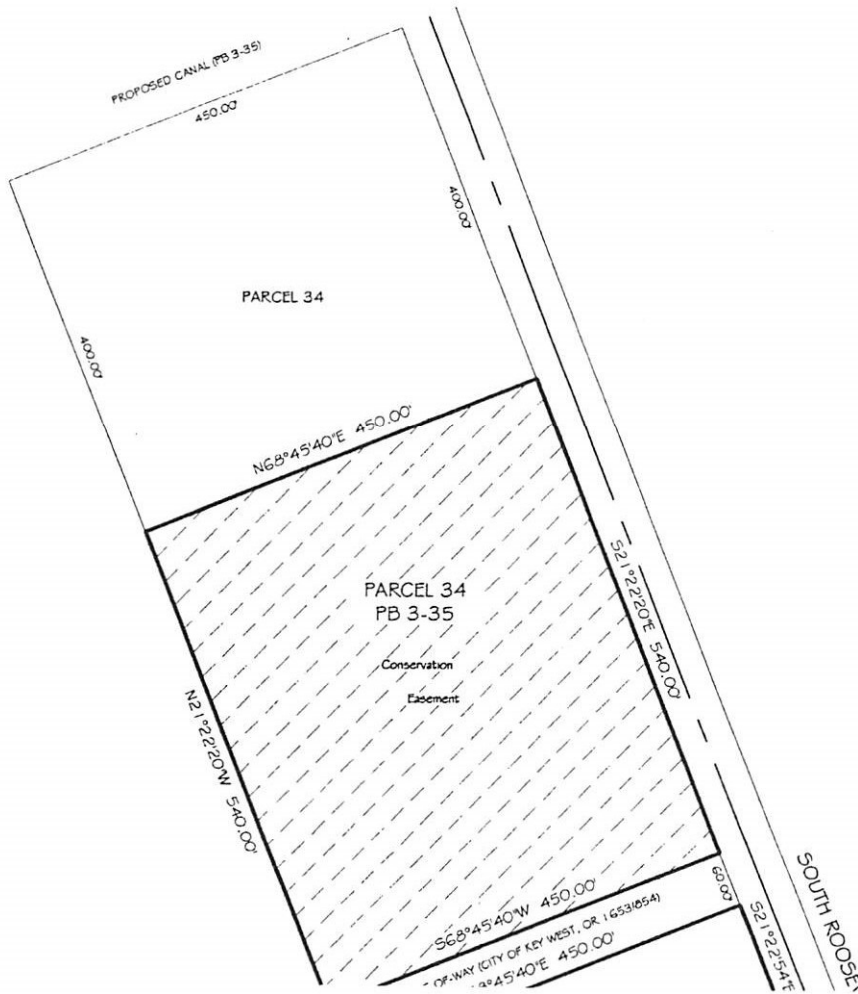
FEBRUARY 12, 2005

PAGE 1 OF 4



Doc# 1501304
Bk# 2081 Pg# 1758

SPECIFIC PURPOSE SKETCH
TO ILLUSTRATE LEGAL DESCRIPTIONS



LOCATION MAP - N.T.S.



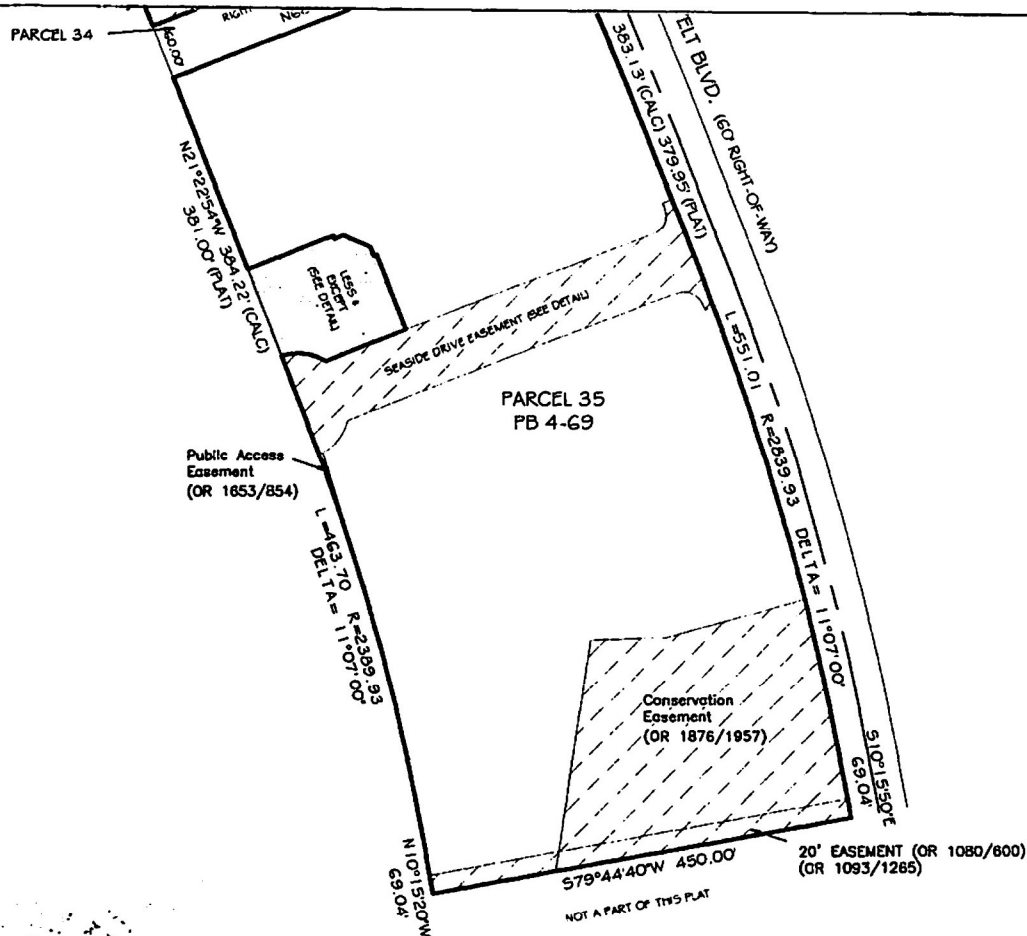
SCALE: 1" = 150'

BEARING BASE:
DERIVED FROM PLAT

ALL ANGLES DEPICTED
ARE 90 DEGREES UNLESS
OTHERWISE INDICATED

Doc# 1501304
BK# 2091 Pg# 1756

Doc# 1501304
Bk# 2091 Pg# 1757



PREPARED FOR: KEY WEST SEASIDE, LLC

SIGNED

ROBERT E. REECE, PSM #0632, PROFESSIONAL SURVEYOR AND MAPPER, LS #0004

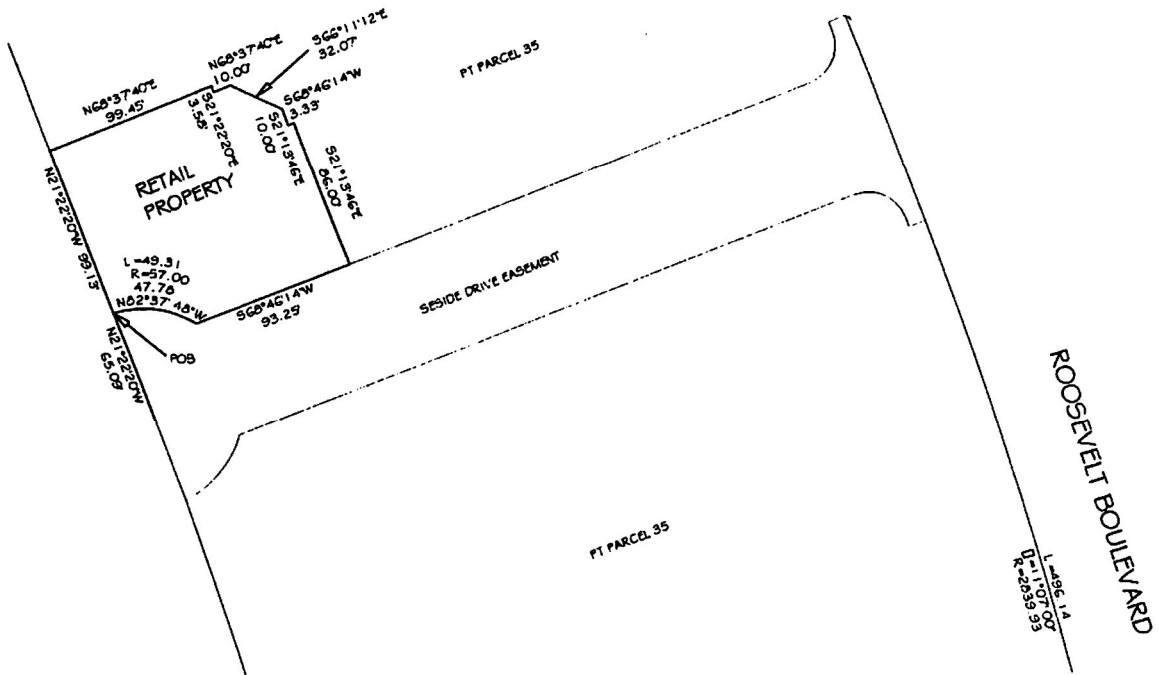
FEBRUARY 12, 2005

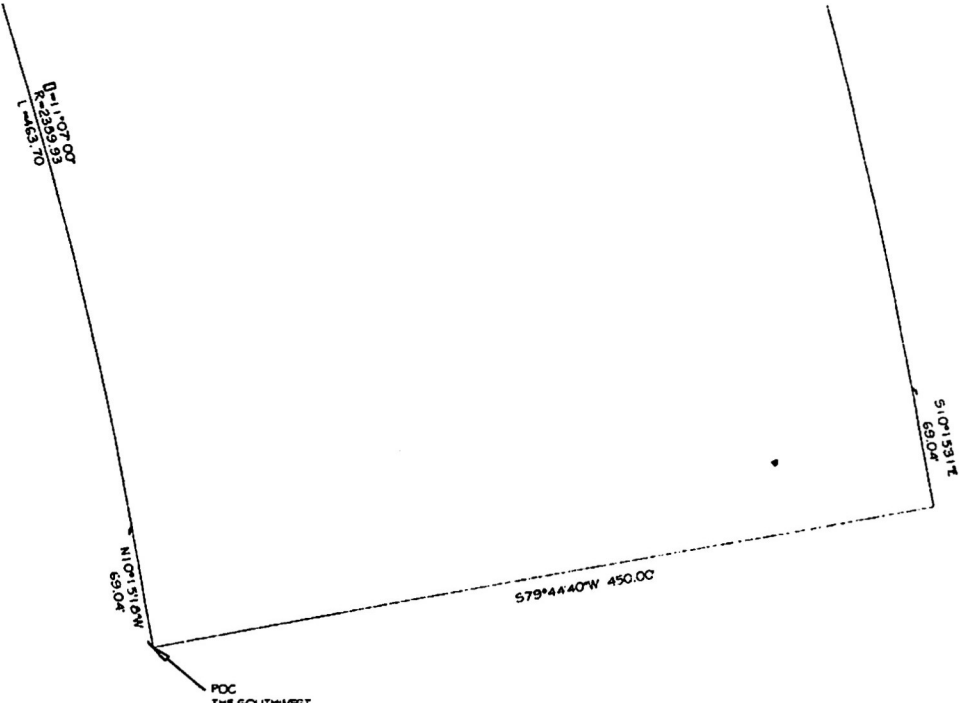
PAGE 2 OF 4



SPECIFIC PURPOSE SKETCH
TO ILLUSTRATE LEGAL DESCRIPTIONS
DETAIL
LESS D(CEPT RETAIL PROPERTY

Doc# 1501304
Bk# 2081 Pg# 1738





CORNER OF PARCEL 35 SCALE: 1" = 80'

PREPARED FOR: KEY WEST SEASIDE, LLC

SIGNED

ROBERT E. REECE, PSM #5632, PROFESSIONAL SURVEYOR AND MAPPER, LB #6204

FEBRUARY 12, 2005

PAGE 3 OF 4

A

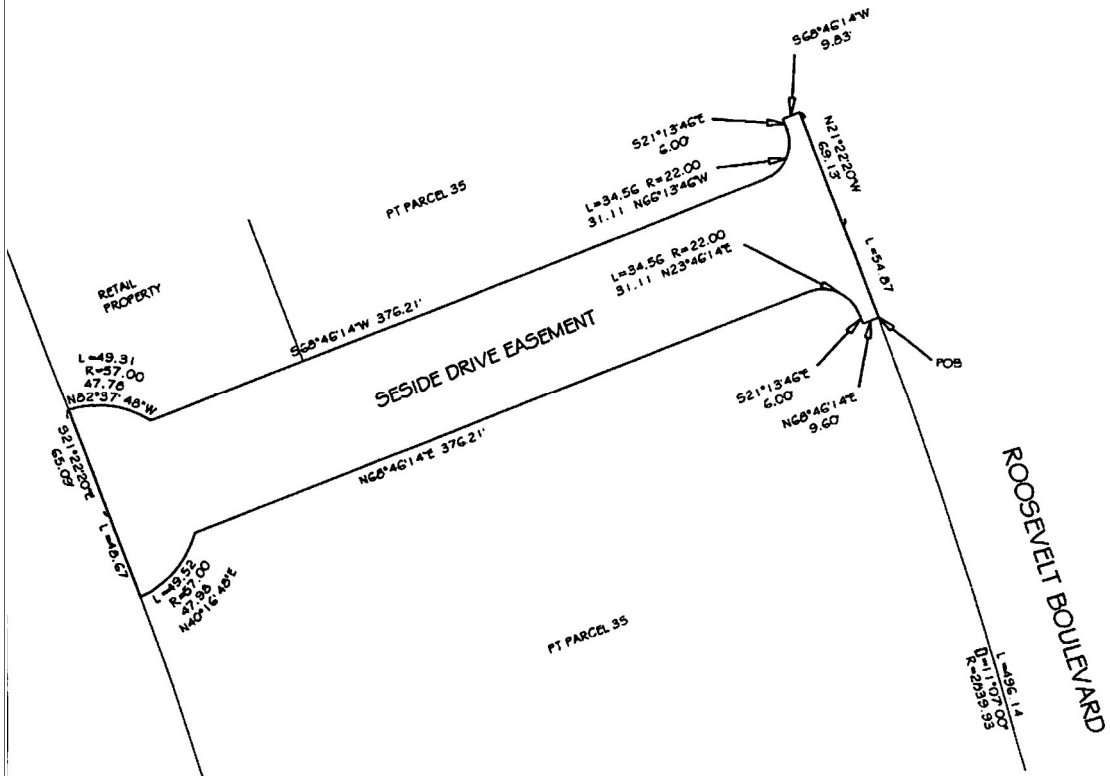
PROFESSIONAL SURVEYOR AND MAPPER

30364 DUAL REECE TRAIL, BIG PINE KEY, FL 33043
OFFICE (305) 872-1340
FAX (305) 872-5622

R.e. REECE, P.A.

speartc PURPOSE SKETCH
TO ILLUSTRATE LEGAL DESCRIPTIONS

DETAIL
SEASIDE DRIVE EASEMENT



Doc# 1501304
Bk# 2091 P# 1760

D=11.07' 00"
R=2369.35'
L=415.03'

N10°15'10"W
69.04'

S79°44'40"W 450.00'

S10°15'31"E
69.04'

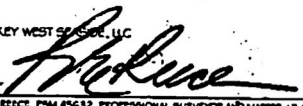
POC
THE
SOUTHEAST
CORNER OF
PARCEL 35



SCALE: 1" = 80'

Doc# 1501304
Bk# 2091 P# 1761

PREPARED FOR: KEY WEST SERVICES, LLC

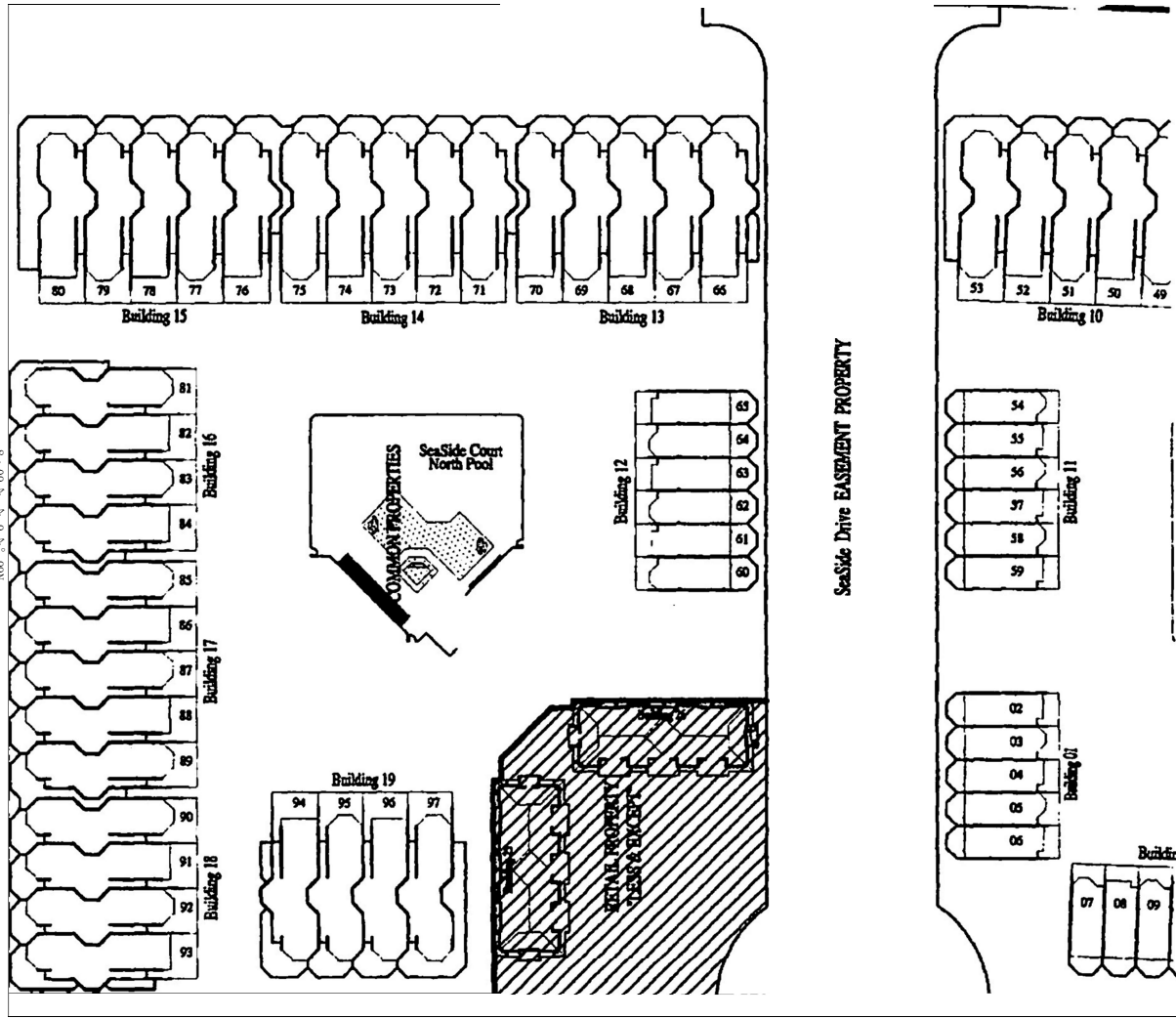
SIGNED 
ROBERT E. REECE, PSMA #5632, PROFESSIONAL SURVEYOR AND MAPPER, LD #6004

FEBRUARY 12, 2005

PAGE 4 OF 4



R.E. REECE, P.A.
PROFESSIONAL SURVEYOR AND MAPPER
30264 OLIVE ROOST TRAIL, DIXIE KEY, FL 33043
OFFICE (889) 872-1346
FAX (889) 872-5622



あトPコク2

ATTAN6I C S O □ H 0 7 □ °
S 0 N □ H □ S U N
R
E S O 0 7 I -- I C 6 □ □ NO | 0 Y 7 □ °

$$0 \rightarrow \mathcal{E} \rightarrow \mathcal{F} \rightarrow \mathcal{G} \rightarrow 0$$

2000 年 旧 11 月 20 日

ATIANGI の 00 硯

2000 年 旧 11 月 20 日

$$0 \rightarrow \mathcal{E} \rightarrow \mathcal{F} \rightarrow \mathcal{G} \rightarrow 0$$

Doc# 1501304
BKN 2091 Pgh 1763

L=551.01 R=2839.93 DELTA= 11°07'00"

S10°15'50"E
69.04'

EASEMENT
CURVE DATA:
RADIUS=2839.93'
DELTA = 3° 24' 37"
LENGTH=169.03'

Conservation
Easement
Salt Pond & Natural
Vegetation Area

316.28'
N 79° 44' 40" E

579°44'40"W 450.00'

S 74° 40' 16" W
152.78'

S 89° 05' 20" W
79.01'

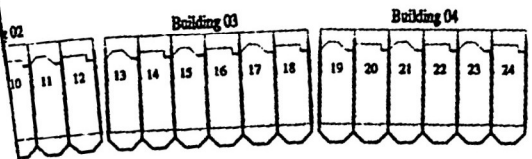
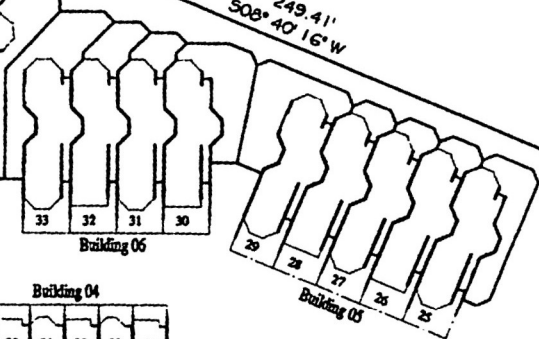
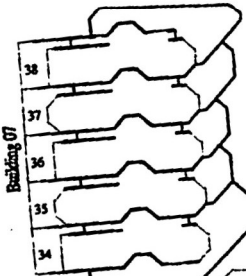
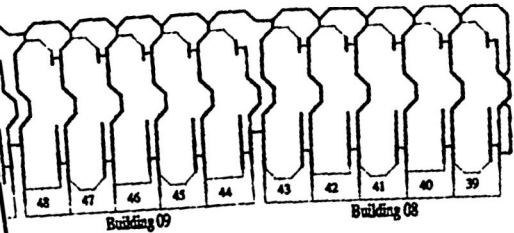
249.41'
S 08° 40' 16" W

N10°15'20"W
69.04'

L=463.70 R=2389.93
DELTA= 11°07'00"

A.R.E. REECE, P.A.
PROFESSIONAL SURVEYOR AND MAPPER
30864 QUAIL CREEK RD. #100
SUITE 100
DALLAS, TEXAS 75244
TEL: (972) 872-5622

PREPARED FOR: KEY WEST SEASIDE, LLC
[Signature]
SIGNED: ROBERT E. REECE, PSM #1532, PROFESSIONAL SURVEYOR AND MAPPER, ID #0884
FEBRUARY 12, 2005





Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of SEASIDE KEY WEST RESIDENCES HOMEOWNERS ASSOCIATION, INC., a Florida corporation, filed on January 18, 2005, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H05000012416. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below

The document number of this corporation is N050000000538.

Authentication Code: 305A0C003442-011905-N050000000538-1/1

Doc# 1501304
Bk# 2091 P# 1764



Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Nineteenth day of January, 2005

Wanda E. Hood
Wanda E. Hood
Secretary of State