

DECLARATION
OF
CONDOMINIUM
OF THE

DEL MAR CONDOMINIUM APARTMENTS

(Includes Amendments Through 2002)

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EXHIBIT C - Plot plans showing the location and dimensions of each apartment in Building __ , and of common elements within or attached thereto, and the location, dimensions and description of the premises leased by the Association under the Long Term Lease. (Referred to in Section 5.2)

EXHIBIT D - A surveyor's certificate concerning the validity of the survey and plot plans. (Referred to in Section 5.3)

EXHIBIT E - A schedule showing the types of apartments of the condominium and the percentages of the common elements attributable to each. (Referred to in Sec. 6)

DECLARATION OF CONDOMINIUM
OF

VISTA DEL MAR APARTMENT BUILDING D, A CONDOMINIUM
TOWN OF INDIAN RIVER SHORES, FLORIDA

Made this 8th day of September, 1972
by VISTA PROPERTIES OF VERO BEACH, INC., a Florida corporation,
hereinafter called the "Developer", for itself, its successors
and assigns.

WHEREIN the Developer makes the following declarations:

1. PURPOSE.

The purpose of this Declaration is to submit certain land described in this instrument and the improvements upon such land to the condominium form of ownership and use in the manner provided by Chapter 711, Florida Statutes, 1971, hereinafter called the Condominium Act.

2. NAME AND ADDRESS.

The name by which this condominium is to be identified is VISTA DEL MAR APARTMENT BUILDING D, A CONDOMINIUM, and its address is Town Of Indian River Shores, Florida.

3. THE LAND.

The land owned by the Developer, which it hereby submits to the condominium form of ownership, is located in Indian River County, Florida. A description thereof is attached as Exhibit A.

4. DEFINITIONS.

The terms used in this Declaration and in its Exhibits, and in all amendments thereto, will have the meanings stated in the Condominium Act and as follows, unless the context otherwise requires:

4.1. Apartment means unit as defined by the Condominium Act.

✓ 4.2. Apartment Owner means unit owner, as defined by the Condominium Act.

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4.3 **Assessment** means a share of the funds required for the payment of the common expenses which, from time to time, is assessed against each apartment owner.

4.4 **Association** means DEL MAR ASSOCIATION, INC., the Florida not for profit corporation, its successors and assigns, responsible for the operation of the condominium.

4.5 **Common Elements** means the portion of the condominium property not included in the apartments; and shall include sewer lines and the tangible personal property required for the maintenance and operation of the condominium. It shall also include all other tangible property which is owned by the Association; particularly the recreational facilities consisting of the clubhouse, swimming pool, shuffleboard courts, and the land, facilities and equipment associated therewith. **(As amended 2/6/92)**

4.6 **Common Expenses** include:

a. Expenses of administration; expenses of maintenance, operation, repair or replacement of the common elements, and of the portions of the apartments to be maintained by the Association.

b. Expenses declared common expenses by provisions of the Declaration or the Bylaws of the Association.

c. Any valid charge against the condominium property as a whole.

d. All monies due under the Long Term Lease and under the Management Agreement, as hereinafter set forth. **(This section no longer in effect, because both the Lease and the Agreement no longer exist.)**

e. Those expenditures made by the Board of Directors necessary in its discretion to implement and provide "facilities and services" referred to under EXEMPTION THREE of the ACT, as more fully explained in the "ADMINISTRATIVE RULES". The terms "EXEMPTION THREE", "ACT", and "ADMINISTRATIVE RULES" are defined below. These expenditures shall be deemed to be proper common expenses under Section 718.115(1), Florida Statutes (1988). **(Section added in 1988)**

4.7 **Common Surplus** means the excess of all receipts of the Association over the common expenses.

4.8 **Condominium** means that form of ownership of property under which units of improvements are subject to ownership by different owners; and there is appurtenant to each unit, as a part thereof, an undivided share in the common elements.

4.9 **Condominium Property** means and includes the land hereby submitted to the condominium form of ownership, all improvements thereon, and the common elements; and all easements and rights appurtenant thereto.

4.10 Institutional Mortgage means a mortgage held by a bank, savings and loan association, insurance company, or a union pension fund authorized to do business in the State of Florida, or an agency of the United States Government.

4.11 Long Term Lease means and refers to a lease between the Developer and the Association, demising the premises therein described to the Association; and upon which premises there is constructed, or will be constructed, recreational facilities. (The lease is no longer in effect.)

4.12 Management Agreement means and refers to the agreement between the Developer and the Association, providing for the operation and management of the condominium for a period of two and one-half (2 1/2) years. (This agreement was cancelled in 1977.)

4.13 Singular, Plural Gender. Whenever the context so permits, the use of plural shall include the singular, the singular the plural, and the use of any gender shall be deemed to include all genders.

4.14 "ACT" shall mean and refer to the (Federal) Fair Housing Amendments Act of 1988 (Pub. L. 100-430, approved September 13, 1988; 102 STAT.1619).

4.15 "ADMINISTRATIVE RULES" shall mean and refer to the administrative rules promulgated by the Secretary of the Housing and Urban Development, which are scheduled to become (or are) effective on or before March 12, 1989.

4.16 "COMMUNITY" shall mean and refer to all of the nine (9) Condominiums in Vista Del Mar Apartment Buildings Condominiums, inclusive of all real property owned by the Association (Association Property).

4.17 "EXEMPTION THREE" shall mean and refer to the exemption for housing for older persons (55 or over housing) as is provided for in Section 807 (b)(2)(c) of the Act.

5. DEVELOPMENT PLAN.

The condominium includes an apartment building; and it is described and established as follows:

5.1. Survey. A survey of the land hereby submitted to the condominium form of ownership, showing the location of improvements and common elements, is attached as Exhibit B. An additional document creating a road easement is also attached as a part of Exhibit B.

The condominium will be one of a series of nine (9) separate contiguous condominiums, each of which will include an apartment building, to be established by the Developer upon lands in Indian River County, Florida. The Association will be responsible for the operation of all of said condominiums; and they will be managed as a single entity. The Declarations of Condominium for all of said condominiums will be in substantially the same form.

5.2. Plot Plans showing the location and dimensions of each apartment of the apartment building of this condominium and of common elements within or attached to said building and showing the location, dimensions and description of the premises leased by the Association under the Long Term Lease are attached as collective Exhibit C. For the purpose of identification, all apartments are given identifying numbers and no apartment bears the same identifying number as does any other apartment.

5.3. A Surveyor's Certificate that said survey and plot plans, together with the wording of the Declaration, is a correct representation of the improvements described; and that there can be determined therefrom, the identification, location, dimensions, and size of the common elements, and of each apartment is attached as Exhibit D.

5.4. Amendment of Plans.

a. Alteration of Apartment Plans. The Developer reserves the right to change the interior design and arrangement of all apartments and to alter the boundaries between apartments, as long as it owns the apartments so altered. However, no such change will increase or decrease the number of apartments nor alter the common elements without amendment of this Declaration in the manner described in Article 19 hereof. If the Developer makes any changes in apartments, as herein authorized, such changes will be reflected by an amendment of this Declaration; and if more than one apartment is concerned, the Developer will apportion between the apartments the shares in the common elements appurtenant to the apartments concerned.

b. Addition of Covered Automobile Parking Spaces. The Developer also reserves the right to construct covered automobile parking spaces upon that portion of the condominium property that is designated as a covered parking area in Exhibit B. Such covered automobile parking spaces, if constructed, will be common elements; and one such space will be designated by the Association for use by the occupants of each apartment. The addition of such covered automobile parking spaces will be reflected by an amendment of this Declaration.

c. Amendment of Declaration. An amendment of this Declaration reflecting such authorized alteration of apartment plans by the Developer, or the addition of covered automobile parking spaces, need be signed and acknowledged only by the Developer and need not be approved by the Association, apartment owners or lienors or mortgagees of apartments or of the condominium, whether or not elsewhere required for an amendment.

5.5. Easements are reserved through the condominium property, as may be required for utility services, sewer lines and drainage, in order to adequately serve this condominium, such others established and to be established by the Developer and the premises demised by the Long Term Lease. However, said utility service easements through an apartment will be only according to the plans and specifications for the apartment building, or as the building is constructed, unless approved in writing by the apartment owner.

5.6 Improvements - General Description.

a. Apartment Building. The apartment building of this condominium consists of a first floor, a second floor and a third floor. It contains apartments and common elements.

b. A Sewage Treatment Plant and Sewer Lines (This subsection is no longer in effect. Such services are now provided by Vero Beach Utilities.)

c. Other improvements include landscaping and automobile parking areas, all of which are part of the common elements.

5.7 Apartment boundaries. Each apartment includes that part of the building that lies within the boundaries of the apartment, which boundaries are as follows:

a. Upper and lower boundaries. The upper and lower boundaries of the apartment will be the following boundaries, extended to an intersection with the perimetrical boundaries:

- (1) Upper Boundary (first and second floor apartments) - The horizontal plane of the lower surfaces of the ceiling slab.
- (2) Upper Boundary (third floor apartments) - The horizontal plane of the upper surfaces of the sheetrock.
- (3) Lower Boundary (all apartments) - The horizontal plane of the lower surfaces of the floor slab.

b. Perimetrical boundaries. The perimetrical boundaries of the apartment will be the following boundaries extended to an intersection with the upper and lower boundaries:

(1) Exterior building walls - the intersecting vertical planes adjacent to and which include the exterior of the outside walls of the apartment building bounding an apartment.

(2) Interior building walls - the vertical planes of the center line of walls bounding the apartment extended to intersections with other perimetrical boundaries with the following exceptions:

(i) If interior building walls separate apartments from the common elements, the perimetrical boundaries as to such walls will be the intersecting vertical planes adjacent to and including the surfaces thereof facing the common elements.

(ii) If walls between apartments are of varying thickness, or abut a column or shaft, the plane of the center line of a bounding wall will be extended to an intersection with the connecting bounding plane without regard to the plane of the center line of an intervening column or shaft.

(iii) If walls of different thickness abut with a flush side so that their center lines do not intersect, the plane of the center line of the thinner wall will be extended into the thicker wall for a distance which is one-half the thickness of the thinner wall, and the boundary will thence run at right angle to the plane of the center line of the thicker wall.

(iii) If exterior faces of apartment walls are diametrically opposite from each other, the perimetrical boundary of such apartments will proceed through the intersection of such walls at an angle of forty-five (45) degrees from the exterior face to exterior face.

5.8 Common Elements. The common elements of the condominium consist of the land and all other parts of the condominium property not within the apartments, including all tangible personal property used in the maintenance and operation of the condominium. The premises leased by the Association under the Long Term Lease is not a common element.

6. OWNERSHIP OF COMMON ELEMENTS.

There will be an undivided share in the common elements appurtenant to each apartment of the condominium, stated as a percentage thereof. The types of apartments of the condominium and the percentages attributable to each is set forth in the schedule attached as Exhibit E. However, the ownership of said sewage treatment plant and sewer lines will be subject to the provisions of Article 5 hereof.

The fee title to each apartment will include both the apartment and its undivided interest in the common elements, said undivided interest to be deemed to be conveyed or encumbered with its respective apartment, even though the description in the instruments of conveyance or encumbrance may refer only to the fee title to the apartment. Any attempt to separate the fee title to an apartment from the undivided interest in the common elements appurtenant to each apartment will be null and void.

7. LONG TERM LEASE.

(The 99 year lease was terminated in 1977)

8. MANAGEMENT AGREEMENT.

(The management agreement was cancelled in 1970s).

9. BEACH AREA LANDS.

The Developer has granted to the Association, to its members, to the owners of all apartments of said nine (9) separate condominiums, and to all others who may become owners of any portion of the land upon which said condominiums are to be located, by an Easement Deed recorded in the public records of Indian River County, Florida, a permanent easement to use certain lands adjacent to the mean high water mark of the Atlantic Ocean and within reasonable proximity of the land hereby submitted to the condominium form of ownership. Such beach area lands will be included in the lands of two (2) of said nine (9) separate condominiums. Its use will be only for all lawful purposes and in compliance with any rules and regulations that may from time to time be made by the Association.

10. SHARES OF COMMON EXPENSES AND COMMON SURPLUS.

a. All common expenses of said nine (9) separate condominiums, including this condominium, during such times as they are being managed as a single entity, will be shared by the apartment owners of said condominiums as follows:

(1) The number of square feet of area within the boundaries (as taken from Declarations of Condominium) of each apartment will be divided by the total number of square feet of area within the boundaries (as taken from Declarations of Condominium) of all apartments of said nine (9) separate condominiums. The resulting percentage will be the percentage of the combined common expenses of all of said nine (9) separate condominiums to be paid by the apartment owner; it being the Developer's intention that assessments against the owners of all apartments of the same type in all such condominiums will be the same amount.

The common expenses of this condominium, during such times as said nine (9) separate condominiums are not being managed as a single entity, will be shared by the apartment owners in the same proportions as their percentage interests in the common elements of this condominium.

b. Any common surplus of the Association, during such times as said nine (9) separate condominiums are being managed as a single entity, will be owned by the apartment owners in the same proportions as their shares of the common expenses; and such common surplus as may be apportioned to this condominium by the Board of Directors of the Association, during such times as said condominiums are not being managed as a single entity, will be owned by the apartment owners of this condominium in the same proportions as their interests in the common elements of this condominium.

11. MAINTENANCE, ALTERATION AND IMPROVEMENT.

Responsibility for the maintenance of the condominium property, and restrictions upon its alteration and improvement will be as follows:

11.1. Apartments.

a. By the Association. The Association will maintain, repair and replace:

(1) All portions of apartments contributing to the support of the apartment building, the outside surfaces of walls of the apartment building, the surfaces of interior building walls facing common elements, the outside surfaces of doors leading into apartments and fixtures attached to such surfaces. Such will be done at the expense of the Association, unless made necessary by the negligence of any apartment owner, members of his family or his visitors, guests, employees, agents or lessees. In the event of such negligence, it will be done by the Association at the expense of said apartment owner.

(2) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services, except electrical switches, electrical outlets, light bulbs, appliances, bathroom fixtures, kitchen fixtures and similar equipment, contained within or attached to the portions of the apartments to be maintained by the Association. Such will be done at the expense of the Association, unless made necessary by the negligence of any apartment owner, members of his family or his visitors, guests, employees, agents or lessees. In the event of such negligence, it will be done by the Association at the expense of said apartment owner.

(3) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services and all fixtures and equipment contained within portions of the apartments to be maintained by the apartment owners, if necessary to properly furnish utility services to parts of the condominium other than the apartment within which they are contained. Such will be done at the expense of the owner of the apartment where the work is done.

(4) All incidental damage caused to apartments by such work will be promptly repaired by the Association, at the expense of the party responsible for the expense of such work.

b. By the apartment owners. The responsibility of the apartment owners will be as follows:

(1) To maintain, repair and replace all portions of apartments, except the portions thereof to be maintained, repaired and replaced by the Association. Such will be done at the expense of the owner of the apartment where the work is done.

(2) To wash both sides of all windows of apartments, which will not be the responsibility of the Association.

(3) Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the apartment building or the surfaces of interior building walls facing common elements without the prior written approval of the Board of Directors of the Association.

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

c. Insurance Proceeds. The liability of the Association and apartment owners for maintenance, repair and replacement, as aforesaid, will be reduced to the extent by which such expenses are met by the proceeds of insurance carried by the Association.

d. Alteration and Improvement. Except as elsewhere reserved to the Developer, no structural alterations will be made in the portions of any apartment to be maintained by the Association, without the prior written approval of the owners of apartment in which such work is to be done and of the Board of Directors of the Association. A copy of plans for all such work prepared by an architect licensed to practice in the State of Florida, will be filed with said Board of Directors prior to the start of such work.

11.2 Common Elements.

a. By the Association. The maintenance, repair, replacement and operation of the common elements will be the responsibility of the Association and a common expense. However, the liability of the Association for such expenses will be reduced to the extent by which they are met by the proceeds of insurance carried by it.

b. Alteration and Improvement. There will be no alterations or additions to the common elements of this condominium, by the Association or otherwise, without prior approval in writing by the record owners of all of its apartments. Provided, however, that any alteration or improvement of the common elements of this condominium by the Association bearing the approval in writing of the record owners of not less than seventy-five (75%) percent of its common elements and which does not interfere with the rights of any such owners without their consent, may be done if the owners who do not approve are relieved from the initial cost of such alteration or improvement. The cost of such alteration or improvement, not so assessed, will be assessed to the other apartment owners as a common expense and as determined by the Board of Directors of the Association. There will be no change in the shares and rights of an apartment owner in the common elements so altered or further improved, whether or not the apartment owner contributes to the cost of such alteration or improvement.

However, said sewer lines may be altered and improved as provided in such Agreement between the Developer and the Association, without the approval of apartment owners.

11.3. Limitation upon liability of Association.

Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association will not be liable to apartment owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association or caused by the elements or other owners or persons.

12. ASSESSMENTS.

The making and collection of assessments against apartment owners for common expenses will be pursuant to the Bylaws of the Association and the Management Agreement, subject to the following provisions:

12.1. Share of Common Expense. Each apartment owner will be liable for a proportionate share of the common expenses, and will share in the common surplus, as provided for in Article 10 of this Declaration.

12.2. Interest; Application of Payments. Assessments and installments on such assessments, which are paid on or before ten (10) days after date when due, will not bear interest; but all sums not paid on or before ten (10) days after the date

when due will bear interest at the rate of ten (10%) percent per annum from the date when due until paid. All payments upon account will be first applied to interest and then to the assessment payment first due.

12.3. Lien for Assessments. The Association will have a lien upon each apartment and upon all tangible personal property located within each apartment for any unpaid assessments, together with interest, except that such liens will be subordinate to the liens created under the Long Term Lease and to bona fide liens recorded in the public records of Indian River County, Florida, prior to the recording therein of claims of liens for such unpaid assessments. Reasonable attorneys' fees incurred by the Association incident to the collection of such assessments or the enforcement of such liens, together with all sums advanced and paid by the Association for taxes and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, will be payable by the apartment owner and secured by such liens.

12.4. Collections and Foreclosure. The Association may take such action as it deems necessary to collect assessments by personal action, or by enforcing and foreclosing said liens, and may settle and compromise the same, if in the best interests of the Association. The Association will be entitled to bid at any sale held pursuant to a suit to foreclose any lien; and at any sale held pursuant to a suit to foreclose any assessment lien it may apply as a cash credit against its bid all sums due the Association covered by the lien enforced. In case of the foreclosure of an assessment lien, the apartment owner will be required to pay a reasonable rental for the apartment and the plaintiff in such foreclosure will be entitled to the appointment of a receiver to collect same from the apartment owner and/or occupant.

12.5. Liability of Mortgagee, Lienor or Judicial Sale Purchaser for Assessments. Where the mortgagee of an institutional first mortgage of record acquires title to an apartment as a result of the foreclosure of said mortgage, or where others acquire title as a result of such foreclosure, or where said mortgagee accepts a deed to an apartment in lieu of foreclosure, or where the Lessor under the Long Term Lease acquires title to an apartment as a result of the foreclosure of a lien under said Lease, or where others acquire title as a result of such foreclosure, or where said Lessor accepts a deed to an apartment in lieu of foreclosure, such acquirer of title, his heirs, executors, legal representatives, successors and assigns, will not be liable for the share of common expenses or assessments by the Association

pertaining to such apartment or chargeable to the former owner of such apartment which became due prior to such acquisition of title. Such unpaid share of common expenses or assessments will be deemed to be common expenses, collectible from all of the apartment owners, including such acquirer of title, his heirs, executors, legal representatives, successors and assigns.

12.6 Assignment of Claim and Lien Rights. The Association will have the right to assign its claim and lien rights for the recovery of any unpaid assessment to the Developer, or to any apartment owner or group of apartment owners, or to any third party.

13. ASSOCIATION.

The operation of said nine (9) separate condominiums, including this condominium, will be by the Association, which will fulfill its functions pursuant to the Declarations of Condominium for said condominiums and the following:

13.1 Its Articles of Incorporation, as amended, a copy of which is attached as Exhibit H.

13.2 Its Bylaws, which will be the Bylaws of all such condominiums, a copy of which is attached as Exhibit I.

13.3 No modification of or amendment to the Bylaws of the Association will be valid unless set forth in or annexed to a duly recorded amendment to this Declaration. The Bylaws may be amended in the manner provided for therein, but no such amendment will be adopted which would affect or impair the validity or priority of the record owner.

13.4 Restraint upon assignment of shares in assets. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his apartment.

13.5 Approval or disapproval of matters. Whenever the decision of an apartment owner is required upon any matter, whether or not the subject of an Association meeting, such decision will be expressed by the same person who would cast the vote of such owner if in an Association meeting, unless the joinder of record owners is specifically required by this Declaration.

14. INSURANCE.

The insurance, other than title insurance, that shall be carried upon the condominium property and the property of the apartment owners will be governed by the following provisions:

14.1 Authority to purchase; named insured. All insurance policies upon the condominium property will be purchased by the Association. The named insured will be the Association individually and as agent for the apartment owners, without naming them. Provision will be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of apartment owners. Such policies will provide that payments by the insurer for losses will be made to the Insurance Trustee designated below, and all policies and their endorsements will be deposited with the Insurance Trustee. Apartment owners may obtain coverage at their own expense upon their personal property and for their personal liability and living expenses.

14.2 Coverage.

a. Casualty. The buildings and improvements upon the land hereby submitted to the condominium form of ownership will be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, and all personal property included in the common elements will be insured for its value, as determined by the Association. Such coverage will afford protection against:

- (1) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and;
- (2) Such other risks as from time to time will be customarily covered with respect to buildings on the land, including but not limited to vandalism and malicious mischief.

b. Public Liability in such amounts and with such coverage as shall be required by the Association, with cross liability endorsement to cover liabilities of the apartment owners as a group to an apartment owner.

c. Workmen's Compensation policy to meet the requirements of law.

d. Such other insurance as the Association shall determine from time to time to be required or desirable.

14.3. Premiums. Premiums upon insurance policies purchased by the Association will be paid by the Association as a common expense.

14.4. Insurance Trustee; share of proceeds. All insurance policies purchased by the Association will be for the benefit of the Association and the apartment owners of this condominium and their mortgagees as their interests may appear, and will provide that all proceeds covering property losses will be paid to such bank in Florida with trust powers as may be designated as Insurance Trustee by the Board of Directors of the Association, which Trustee is referred to in this instrument as the Insurance Trustee. The Insurance Trustee will not be liable for payment of premiums nor for the renewal or the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee will be to receive such proceeds as are paid and to hold the proceeds in trust for the purposes elsewhere stated in this Declaration and for the benefit of such apartment owners and their mortgagees in the following shares, but which shares need not be set forth in the records of the Insurance Trustee:

a. Common elements. Proceeds on account of damage to common elements - an undivided share for each apartment owner, such share being the same as the undivided share in the common elements appurtenant to his apartment.

b. Apartments. Proceeds on account of damage to apartments will be held in the following undivided shares:

(1) When the building is to be restored - for the owners of damaged apartments in proportion to the cost of repairing the damage suffered by each apartment owner, which cost will be determined by the Association.

(2) When the building is not to be restored - An undivided share for each apartment owner, such share being the same as the undivided share in the common elements appurtenant to his apartment.

c. Mortgagees. In the event a mortgagee endorsement has been issued as to an apartment, the share of the apartment owner will be held in trust for the mortgagee and the apartment owner as their interests may appear; provided, however, that no mortgagee will have any right to determine or participate in the determination as to whether or not any damaged property will be reconstructed or repaired, and no mortgagee will have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distribution of such proceeds made to the apartment owner and mortgagee pursuant to the provisions of this Declaration.

14.5. Distribution of proceeds. Proceeds of insurance policies received by the Insurance Trustee will be distributed to or for the benefit of the beneficial owners in the following manner:

a. Expense of the trust. All expenses of the Insurance Trustee will be paid first, or provision made for such payment.

b. Reconstruction or repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds will be paid to defray the cost of such as elsewhere provided. Any proceeds remaining after defraying such costs will be distributed to the beneficial owners, remittances to apartment owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of an apartment and may be enforced by such mortgagee.

c. Failure to reconstruct or repair. If it is determined in the manner elsewhere provided that the damage for which proceeds are paid will not be reconstructed or repaired, the remaining proceeds will be distributed to the beneficial owners, remittance to apartment owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of an apartment and may be enforced by such mortgagee.

d. Certificate. In making distribution to apartment owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association as to the names of the apartment owners and their respective shares of the distribution.

14.6. Association as agent. The Association or the Developer, as managing agent during the term of the Management Agreement, is irrevocably appointed agent for each apartment owner and for each owner of any other interest in the condominium property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

15. RECONSTRUCTION OR REPAIR AFTER CASUALTY.

15.1. Determination to reconstruct or repair. If any part of the condominium property shall be damaged by casualty, whether or not it will be reconstructed or repaired will be determined in the following manner:

a. Common elements. If the damaged improvement is a common element, the damaged property will be reconstructed or repaired, unless it is determined in the manner elsewhere provided that this condominium will be terminated.

b. Apartments.

(1) Lesser damage. If the damaged improvement is an apartment or apartments and if apartments to which fifty (50%) percent of the common elements are appurtenant are found by the Association to be tenantable, the damaged property will be reconstructed or repaired unless within sixty (60) days after the casualty it is determined by agreement in the manner elsewhere provided that this condominium will be terminated.

(2) Major damage. If the damaged improvement is an apartment or apartments and if apartments to which more than fifty (50%) percent of the common elements are appurtenant are found by the Association to be not tenantable, then the damaged property will not be reconstructed or repaired and the condominium will be terminated without agreement as elsewhere provided, unless within sixty (60) days after the casualty the owners of seventy-five (75%) percent of the common elements of this condominium agree in writing to such reconstruction or repair.

c. Certificate. The Insurance Trustee may rely upon a certificate of the Association to determine whether or not the damaged property is to be reconstructed or repaired.

15.2. Plans and specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building; or if not, then in accordance with plans and specifications approved by the Board of Directors of the Association; and if the damaged property is an apartment or apartments, by the owners of not less than seventy-five (75%) percent of the common elements of this condominium, including the owners of all damaged apartments, which approval will not be unreasonably withheld.

15.3. Responsibility. If the damage is only to those parts of one apartment for which the responsibility of maintenance and repair is that of the apartment owner, then the apartment owner will be responsible for reconstruction and repair after casualty. In all other instances, the responsibility of reconstruction and repair after casualty will be that of the Association.

15.4. Estimates of costs. Immediately after a determination is made to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair the Association will obtain reliable and detailed estimates of the cost to rebuild or repair.

15.5. Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, assessments will be made against the apartment owners who own the damaged apartments, and against all apartment owners (as a common expense) in the case of damage to common elements, in sufficient amounts to provide funds for the payment of such costs; and such assessments against apartment owners for damage to apartments will be in proportion to the cost of reconstruction and repair of their respective apartments. However, this paragraph will be subject to the terms and provisions of the Management Agreement, under which the Developer agrees to pay amounts equal to such assessments.

15.6. Construction funds. The funds for payment of costs of reconstruction and repair after casualty, which will consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Association from assessments against apartment owners, or from payments by the Developer, will be disbursed in payment of such costs in the following manner:

a. Association. If the total of assessments, or of payments by the Developer, made in order to provide funds for the costs of reconstruction and repair that is the responsibility of the Association is more than \$5,000.00, then the sums so paid will be deposited by the Association with the Insurance Trustee. In all other cases, the Association will hold such sums and disburse them in payment of the costs of reconstruction and repair.

b. Insurance Trustee. The proceeds of insurance collected on account of a casualty, and the sums deposited with the Insurance Trustee by the Developer or by the Association from collections of assessments against apartment owners on account of such casualty will constitute a construction fund which will be disbursed in payment of the costs of reconstruction and repair in the following manner and order:

(1) Association - lesser damage. If the amount of the estimated costs of reconstruction and repair that is the responsibility of the Association is less than \$5,000.00, then the construction fund will be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request to the Insurance Trustee by a mortgagee that is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund will be disbursed in the manner provided for the reconstruction and repair of major damage.

(2) Association - major damage. If the amount of the estimated costs of reconstruction and repair that is the responsibility of the Association is more than \$5,000.00; then the construction fund will be disbursed in payment of such costs upon the order of the Association, but only with the approval of an architect qualified to practice in the State of Florida and employed by the Association to supervise the work.

(3) Apartment owner. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with an apartment owner will be paid by the Insurance Trustee to the apartment owner, or if there is a mortgagee endorsement as to the apartment, then to the apartment owner and the mortgagee jointly, who may use such proceeds as they may be advised.

(4) Surplus. It will be presumed that the first monies disbursed in payment of costs of reconstruction and repair will be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance will be distributed to all apartment owners in reimbursement of any common expense assessments for damage to common elements, in proportion to their contributions; and any excess will be distributed to the apartment owners of this condominium. All remittances to apartment owners of this condominium will be payable jointly to them and to their mortgagees, except that the part of a distribution to an apartment owner of this condominium that is not in excess of assessments paid by such owner into the construction fund will not be made payable to any mortgagee.

However, such balance will be distributed to the Developer if payment has been made by it in lieu of assessments.

(5) Certificate. Notwithstanding the provisions of this Declaration, the Insurance Trustee will not be required to determine whether or not sums paid by the apartment owners upon assessments will be deposited with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to

be upon the order of the Association or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund, or to determine the payee nor the amount to be paid. Instead, the Insurance Trustee may rely upon a certificate of the Association as to any or all of such matters and stating that the sums to be paid are due and properly payable and stating the name of the payee and the amount to be paid; provided that when a mortgagee is required in this instrument to be named as payee, the Insurance Trustee will also name the mortgagee as a payee of any distribution of insurance proceeds to an apartment owner; and further provided that when the Association, or a mortgagee that is the beneficiary of an insurance policy whose proceeds are included in the construction fund, so requires, the approval of an architect named by the Association will be first obtained by the Association upon disbursements in payment of costs of reconstruction and repair.

16. USE RESTRICTIONS.

The use of the condominium property will be in accordance with the following provisions, as long as the condominium exists and the apartment building in useful condition exists upon the land.

a. Each of the apartments will be occupied as a single family private dwelling by its owner or his tenant, their visitors and guests, and for no other purpose. No apartment may be divided to increase the number of rooms or subdivided into a smaller unit nor any portion sold or otherwise transferred without first amending this Declaration to show the changes in the apartments affected. (As amended in 2002)

b. No person under twenty one (21) years of age will be permitted to reside in any of the apartments of this condominium except that persons under the age of twenty one (21) years may be permitted to visit an apartment as provided for in Section (c) next below. Since this amendment is in essence a clarification of the original Declarations, the effective date of this amendment is the date on which the particular Declaration was originally recorded. (As amended in 2002)

c. Persons under twenty one (21) years of age may visit the apartments, for a period of time not to exceed thirty (30) days in any given calendar year. Such visitation time periods shall not be cumulative from year to year. Only overnight visitation shall be considered in the aforesaid computation; so by way of example, if an underage person visits overnight, two (2) days of visitation shall be computed; if an underage person visits during the day only and does not stay overnight, no days of visitation shall be computed. Since this amendment is in essence a clarification of the original Declarations, the effective date of this amendment is the date on which the particular Declaration was originally recorded. (As amended in 2002)

d. The use of the common elements, of the premises demised to the Association under the Long Term Lease, and of the beach area lands will be subject to rules and regulations made by the Association.

e. No animals or pets of any kind will be kept in any apartment or upon any other portion of the condominium property.

f. The apartment owners will not cause anything to be hung, displayed, or placed on the exterior walls, doors, windows, walkways, ceilings of walkways or roof of the apartment building; and they will not otherwise change the appearance of any portion of the exterior of the apartment building or the surfaces of interior building walls facing common elements without the prior written consent of the Association. No clothes lines or similar devices, no radio or television antennas or aerials and no "For Sale" signs, will be allowed on any part of the condominium property without the written consent of the Association,

g. Automobiles may be parked in the parking areas of the condominium property adjacent to or near the apartment building, but only in accordance with the regulations of the Association. One parking space, which will be a covered space ~~if constructed by the Developer~~, will be designated for use by the occupants of each apartment and the remaining spaces will only be used by those persons specified by the Association. No other vehicles and objects, including but not limited to trucks, ~~bicycles~~, motorcycles, trailers and boats, will be parked or placed upon any portion of the condominium property unless permitted by the Association.

h. No nuisances will be allowed upon the condominium property, nor any use or practice that is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the condominium will be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate, nor any fire hazard allowed to exist. No apartment owner will permit any use of his apartment or make any use of the common elements that will increase the cost of insurance upon the condominium property.

i. No improper, offensive or unlawful use will be made of the condominium property nor any part of it; and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction will be observed. The responsibility of meeting the requirements of governmental bodies for maintenance, modification or repair of the condominium property will be the same as the responsibility for the maintenance and repair of the property concerned.

j. After approval by the Board of Directors of the Association elsewhere required, entire apartments may be leased for periods of not less than sixty (60) days, provided the occupancy is only by the lessee, his visitors and guests. No rooms may be rented and no transients may be accommodated.

k. Rules and regulations concerning other use of the condominium property may be made and amended from time to time by the Association. Owners and lessees are responsible for their own and their guests' compliance with all rules and regulations. Copies of such rules and regulations will be furnished to all apartment owners and residents of the condominium, upon request. **(As amended Feb. 1992)**

16.1 Proviso. **This section was expunged because it dealt with the Developer's rights prior to the transfer of property to the Del Mar Association.**

17. MAINTENANCE OF COMMUNITY INTERESTS.

In order to maintain a community of congenial residents who are financially responsible, and thus protect the value of the apartments, the transfer of apartments by any owner other than the Developer will be subject to the following provisions as long as the condominium exists and the apartment building in useful condition exists upon the land, which provisions each apart owner covenants to observe:

17.1 Transfer subject to approval.

✓ a. Sale. No apartment owner may dispose of an apartment or any interest in an apartment without approval of the Board of Directors of the Association. No person under the age of 55 can purchase an apartment. **(As amended 2002)**

b. Lease. No apartment owner may lease his apartment without approval of the Board of Directors of the Association. No lease, will be for a period of less than sixty (60) days. No subleasing is permitted. **(As amended _____)**

c. Gift. If any apartment owner shall acquire his title by gift, the continuance of his ownership of his apartment will be subject to the approval of the Board of Directors of the Association.

d. Devise or inheritance. If any apartment owner shall acquire his title by devise or inheritance, the continuance of his ownership of his apartment will be subject to the approval of the Board of Directors of the Association.

e. Other transfers. If any apartment owner shall acquire his title in any manner not considered in the foregoing sub-sections, the continuance of his ownership of his apartment will be subject to the approval of the Board of Directors of the Association.

f. A transfer fee of not more than one hundred dollars (\$100.00), payable to the Association, will be charged for each purchase, new lease or other transfer of an apartment. However, if a lease is a renewal of a previous lease within a period of two consecutive years, no transfer fee will be charged. (As amended 2002)

✓ 17.2 Approval by Association. The approval of the Board of Directors of the Association that is required for the transfer of ownership or lease of apartments will be obtained in the following manner:

a. Notice to Association.

(1) Sale. An apartment owner intending to make a bona fide sale of his apartment or any interest in it will give to the Board of Directors of the Association notice of such intention, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as said Board may reasonably require. Such notice, at the apartment owner's option, may include a demand by the apartment owner that said Board furnish a purchaser of the apartment if the proposed purchaser is not approved; and if such demand is made, the notice will be accompanied by an executed copy of the proposed contract to sell.

(2) Lease. An apartment owner intending to make a bona fide lease of his apartment will give to the Board of Directors of the Association notice of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as said Board may reasonably require and an executed copy of the proposed lease.

(3) Gift; devise or inheritance; other transfers. An apartment owner who has obtained his title by gift, devise or inheritance, or by any other manner not previously considered, will give to the Board of Directors of the Association notice of the acquiring of his title, together with such information concerning the apartment owner as said Board may reasonably require and a certified copy of the instrument evidencing the owner's title.

(4) Failure to give notice. If the above required notice to the Board of Directors of the Association is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of an apartment said Board at its election and without notice may approve or disapprove the transaction or ownership. If said Board disapproves the transaction or ownership, it will proceed as if it had received the required notice on the date of such disapproval.

(5) Orientation Meeting. An orientation meeting will be required for all prospective purchasers and lessees, conducted by the Association's Sales and Lease Committee. This meeting may be scheduled at the Association office, on a mutually agreeable date following submission of the purchase or lease application, as prescribed by the Board of Directors. This meeting must be accomplished before the Board of Directors' certificate of approval can be issued and before the purchaser(s) or Lessee(s) may occupy the apartment. (As amended February 1992)

b. Certificate of Approval.

(1) Sale. If the proposed transaction is a sale, then within thirty (30) days after receipt of such notice and information, the Board of Directors of the Association must either approve or disapprove the proposed transaction. If approved, the approval will be stated in a certificate executed by the Board of Directors of the Association and signed by the President. Under no circumstances may the purchaser(s) occupy the apartment prior to approval by the Board of Directors. (As amended February 1992)

(2) Lease. If the proposed transaction is a lease, then within thirty (30) days after receipt of such notice and information, the Board of Directors of the Association must either approve or disapprove the proposed transaction. If approved, the approval will be stated in a certificate executed by the Board of Directors of the Association and signed by the President. Under no circumstances may the lessee(s) occupy the apartment prior to approval by the Board of Directors or prior to the date of the lease. (As amended February 1992)

(3) Gift; devise or inheritance; other transfers. If the apartment owner giving notice has acquired his title by gift, devise or inheritance or in any other manner not previously considered, then within thirty (30) days after receipt of such notice and information the Board of Directors of the Association must either approve or disapprove the continuance of the apartment owner's ownership of his apartment. If approved, the approval will be stated in a certificate executed by the President and Secretary of the Association.

c. Approval of corporate owner or purchaser. Inasmuch as the condominium may be used only for residential purposes and a corporation cannot occupy an apartment for such use, if the apartment owner or purchaser of an apartment is a corporation, the approval of ownership by the corporation may be conditioned by requiring that all persons occupying the apartment be approved by the Board of Directors of the Association.

17.3. Disapproval by Association. If the Board of Directors of the Association shall disapprove a transfer or ownership of an apartment, the matter will be disposed of in the following manner:

a. Sale. If the proposed transaction is a sale and if the notice of sale given by the apartment owner shall so demand, then within thirty (30) days after receipt of such notice and information the Board of Directors of the Association will deliver or mail by registered mail to the apartment owner an agreement to purchase the apartment concerned by a purchaser approved by it, who will purchase and to whom the apartment owner must sell the apartment upon the following terms.

(1) At the option of the purchaser to be stated in the agreement, the price to be paid will be that stated in the disapproved contract to sell or will be the fair market value determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators will be two (2) appraisers appointed by the American Arbitration Association who will base their determination upon an average of their appraisals of the apartment; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any Court of competent jurisdiction. The expense of the arbitration will be paid by the purchaser.

(2) The purchase price will be paid in cash.

(3) The sale will be closed within thirty (30) days after the delivery or mailing of the agreement to purchase, or within ten (10) days after the determination of the sale price if such is by arbitration, whichever is the later.

(4) A certificate approving the purchaser will be executed by the President and Secretary of the Association.

(5) If the Board of Directors of the Association shall fail to provide a purchaser as required by this instrument, or if a purchaser furnished by it shall default in his agreement to purchase, then notwithstanding the disapproval the proposed transaction will be deemed to have been approved and said Board will furnish a certificate of approval as elsewhere provided.

b. Lease. If the proposed transaction is a lease, the apartment owner will be advised of the disapproval in writing, and the lease will not be made.

c. Gifts; devise or inheritance; other transfers.

If the apartment owner giving notice has acquired his title by gift, devise or inheritance, or by any other manner not previously considered, then within thirty (30) days after receipt from the apartment owner of the notice and information required to be furnished, the Board of Directors of the Association will deliver or mail by registered mail to the apartment owner an agreement to purchase the apartment concerned by a purchaser approved by it, who will purchase and to whom the apartment owner must sell the apartment under the following terms:

(1) The sale price will be the fair market value determined by agreement between the seller and purchaser, made within thirty (30) days from the delivery or mailing of such agreement. In the absence of agreement as to price, the price will be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators will be two (2) appraisers appointed by the American Arbitration Association who will base their determination upon an average of their appraisals of the apartment; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration will be paid by the purchaser.

(2) The purchase price will be paid in cash.

(3) The sale will be closed within ten (10) days following the determination of the sale price.

(4) A certificate approving the purchaser will be executed by the President and Secretary of the Association.

(5) If the Board of Directors of the Association shall fail to provide a purchaser as required by this instrument, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval, such ownership will be deemed to have been approved, and said Board will furnish a certificate of approval as elsewhere provided.

17.4. Mortgage. No apartment owner may mortgage his apartment or any interest in it without the approval of the Board of Directors of the Association, unless it is an institutional mortgage or a mortgage to the Developer to secure a portion or all of the purchase price. The approval of any other mortgage may be upon conditions determined by said Board or may be arbitrarily withheld.

17.5. Exceptions. The foregoing provisions of this section entitled "Maintenance of Community Interests" will not apply to a transfer to or a purchase by the holder of an institutional mortgage, or the lessor under the Long Term Lease, that acquire its title as the result of owning such mortgage or lien upon the apartment concerned; and this will be so whether the title is acquired by deed from the apartment owner, his successors or assigns, or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by the holder of an institutional mortgage, or by the lessor under the Long Term Lease, that so acquires its title. Neither will such provisions require the approval of a purchaser who acquires the title to an apartment at a duly advertised public sale with open bidding provided by law, such as, but not limited to, execution sale, foreclosure sale, judicial sale, or tax sale.

17.6. Unauthorized Transactions. Any sale, mortgage or lease not authorized pursuant to the terms of this Declaration will be void, unless subsequently approved by the Board of Directors of the Association.

18. COMPLIANCE AND DEFAULT.

Each apartment owner will be governed by and will comply with the terms and provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, the Long Term Lease, the Management Agreement, and the rules and regulations adopted pursuant to those documents, as they may be amended from time to time. Failure of an apartment owner to comply with such documents and rules and regulations will entitle the Association, its Board of Directors, or apartment owners to the following relief, in addition to the remedies provided by the Condominium Act or otherwise:

18.1. Increase in Insurance Premiums. An apartment owner will pay the Association the amount of any increase in its insurance premiums occasioned by use, misuse, occupancy or abandonment of an apartment or its appurtenances, or of the common elements, by the apartment owner.

18.2. Costs and attorneys' fees. In any proceeding arising because of an alleged failure of an apartment owner or the Association to comply with the terms of this Declaration, the Articles of Incorporation and Bylaws of the Association, the Long Term Lease, the Management Agreement, or the rules and regulations adopted pursuant to those documents, as they may be amended from time to time, the prevailing party will be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be awarded by the court.

18.3 No waiver of rights. The failure of the Association or its Board of Directors, or of any apartment owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation and Bylaws of the Association, the Long Term Lease, the Management Agreement, or the rules and regulations adopted pursuant to those documents will not constitute a waiver of the right to do so thereafter.

18.4 The Association may levy reasonable fines against an apartment owner for the failure of that owner, its occupant, leasee or guest to comply with any provision of the Declaration, the Association Bylaws or reasonable Rules of the Association. Such fines may only be levied after the Association has complied with the conditions set forth in the Florida Statutes, with respect to maximum amount, as well as to notice and opportunity for hearing. **(Section added in 2002)**

19. AMENDMENTS.

Except as elsewhere provided otherwise, this Declaration may be amended in the following manner:

19.1. Notice. Notice of the subject matter of a proposed amendment will be included in the notice of any meeting at which a proposed amendment is considered.

19.2 A resolution for the adoption of a proposed amendment may be proposed by either the Board of Directors of the Association or by members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided such approval is delivered to the Secretary at, or prior to the meeting. Except as elsewhere provided, such approvals must be either by:

(a) not less than sixty (60%) of the entire membership of the Board of Directors and by not less than sixty (60%) of the votes of the entire membership of the Association; or

(b) not less than seventy-five (75%) of the votes of the entire membership of the Association. **(Subsections (a) and (b) were amended in 1976)**

19.3. Proviso. Provided, however, that no amendment will discriminate against any apartment owner or against any apartment or class or group of apartments, unless the apartment owners so affected shall consent; and no amendment will change any apartment nor the share in the common elements appurtenant to it, nor increase the owner's share of the common expenses, (except as reserved to the Developer) unless the record owner of the apartment concerned and all record owners of mortgages on such apartment shall join in the execution of the amendment; and no amendment will affect or impair the validity or priority of any mortgage covering any apartment or the rights of the lessor under the Long Term Lease or the rights of the Developer under the Management Agreement, unless such mortgagee, lessor or Developer shall join in the execution of the amendment. Neither shall any amendment make any change in the sections hereof entitled "Insurance", "Reconstruction Or Repair After Casualty", or "Amendments", or in paragraph 17.5 of the section entitled "Maintenance Of Community Interests", unless the record owners of all mortgages upon the condominium shall join in the execution of the amendment.

20. TERMINATION.

This condominium may be voluntarily terminated in the manner provided for in the Condominium Act, at any time, by the approval of all apartment owners of this condominium and the holders of all liens affecting any of its apartments, including the lessor under the Long Term Lease. In addition thereto, if it is determined in the manner elsewhere provided in this Declaration that the apartments will not be reconstructed because of major damage, the condominium plan of ownership will be terminated without agreement.

21. SEVERABILITY.

The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration of Condominium, the Articles of Incorporation and Bylaws of the Association, the Long Term Lease, the Management Agreement and the rules and regulations of the Association will not affect the validity of the remaining portions.

IN WITNESS WHEREOF, the Developer has executed this Declaration the day and year first above written.

Signed, sealed and delivered
in the presence of:

VISTA PROPERTIES OF VERO BEACH, INC.

By s/ Ronald E. Ewing
Vice President

s/ Deborah F. Spooner

Attest:

s/ Robin D. Bishop

s/ Darroll F. Moss
Assistant Secretary

STATE OF FLORIDA)
COUNTY OF MARTIN) SS.

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared RONALD E. EWING and DARRELL F. MOSS respectively Vice President and Assistant Secretary of VISTA PROPERTIES OF VERO BEACH, INC., to me well known, and they acknowledged before me that they executed the foregoing instrument as such officers of said corporation, and that they affixed thereto the official seal of said corporation; and I FURTHER CERTIFY that I know the said persons making said acknowledgment to be the individuals described in and who executed the said instrument.

WITNESS my hand and official seal this 2nd day
of October, 1972.

s/ Deborah F. Spooner
Notary Public
My commission expires: June 30, 1975

"ARTICLE 22

MINIMUM AGES FOR OCCUPANCY AND OCCUPANCY RESTRICTIONS
UNDER THE FAIR HOUSING AMENDMENTS ACT OF 1988

22.1 MINIMUM AGES FOR OCCUPANCY.

22.1.1 The minimum age for permanent occupancy of a Unit shall be restricted as provided for in Sections 16.b and 16.c of this Declaration, provided that the restrictions contained in the remaining provisions of this Article 22 are also met. As such, those provisions are incorporated herein by reference. Sections 16.b and 16.c of each Declaration shall not be construed to permit occupancy of a Unit which does not comply with the requirements of this Article 22.

22.1.2 The foregoing occupancy restrictions shall not prohibit the occupants of a Unit from having guests of any age, who may visit a Unit, subject to guest/visitation restrictions contained elsewhere in this Declaration or in the Articles of Incorporation, By-Laws and/or Rules and Regulations of the Association.

22.2 STATEMENT OF INTENT. It is hereby declared by this COMMUNITY that the COMMUNITY desires and intends to provide housing for older persons, as defined in the ACT and the ADMINISTRATIVE RULES. It is more specifically the desire and intention of this COMMUNITY to meet the exemption for housing for older persons as is provided for in EXEMPTION THREE (55 or older housing). In this endeavor, the following occupancy restrictions and procedures shall govern. Furthermore, in addition to these amendments, the Association shall do whatever is required by the ACT and ADMINISTRATIVE RULES and not prohibited by law, this Declaration, the Articles of Incorporation, or By-Laws to publish its intention to and adhere to policies and procedures which demonstrate an intent to provide housing for persons 55 years of age or older.

22.3 OCCUPANCY BY OLDER PERSONS - 55 OR OVER HOUSING.

22.3.1 Except for persons who are grandfathered-in as provided for in Section 22.5 below and except for persons referred to in Section 22.3.1(B) below, no Unit shall be occupied or be permitted to be occupied unless there is at least one (1) person occupying the Unit who has attained the age of 55 years.

(A) This occupancy requirement, if met, shall not be construed to permit occupancy by persons of an age otherwise prohibited by Section 22.1 above.

(B) Exceptions to Section 22.3.1.

(1) This occupancy requirement shall not preclude occupancy by guests/visitors as is permitted elsewhere under this Declaration, Articles of Incorporation, By-Laws or Rules and Regulations of the Association or which is permitted under the ACT or ADMINISTRATIVE RULES.

- (2) This occupancy requirement shall not preclude the following occupancy: If a spouse who is at least 55 years of age dies and is survived by the spouse who is under 55 years of age, the surviving spouse may still occupy a Unit in the COMMUNITY, notwithstanding the fact that he or she has not attained the age of 55 years.
- (3) This occupancy requirement shall also not prohibit occupancy by persons who obtain ownership of a Unit by devise or inheritance.

22.3.2 Every Owner and lessee shall be deemed to have a contract with the Association to ensure that the occupancy requirement in this Section 22.3 is met at all times. Even though this occupancy requirement is a contract between the Association and the Owner or lessee, as applicable, this Article 22 shall be deemed to be a covenant running with the land. Furthermore, the Owner shall be responsible to ensure that his/her lessee(s) comply with this occupancy requirement.

22.3.3 Any transfer approved by the Association under Article 17 of this Declaration shall be conditioned upon this occupancy requirement being met at all times; in the event that this occupancy requirement is not met at any time, the approval shall be deemed automatically revoked, giving the Association the remedies provided for in Section 22.4 next below.

22.4 REMEDIES FOR NON-COMPLIANCE. The Association concurrently shall have any one or more of the following remedies for non-compliance in addition to those provided elsewhere in this Declaration or in the By-Laws, or by law:

22.4.1 Lease of a Unit.

- (A) In the event of a lease of a Unit, and the occupancy and other requirements of this Article 22 are not met at any time, the Association shall be entitled to file for and obtain an Injunction order against the Owner of the Unit and the lessee(s) and/or other occupants in the Unit, removing the unauthorized lessee(s) and/or other unauthorized occupants.
- (B) The Association shall also be entitled to evict the lessee(s) and other occupants in the Unit, as agent for the Owner(s). This right of eviction by the Association shall apply only:
- (1) After the expiration of fifteen (15) days from the date on which the Association mails notice to the Owner(s) by certified mail, return receipt requested or provides notice by hand delivery; and
 - (2) Provided that the Owner(s) fail(s) to commence eviction proceedings on his/her/their own and fails to so notify the Association, within the fifteen (15) day period.

(C) The lease shall specify, and if it fails to so specify, the lease shall be deemed to specify that the lessee(s) and all other occupants shall abide by this Declaration, Articles of Incorporation and By-Laws, and Rules and Regulations of the Association; and shall specify that the Association has the remedies provided for in this Section 22.4.1. Costs and attorneys' fees incurred by the Association in connection with the exercise of its remedies under this Section 22.4.1, provided that the Association prevails, shall be the responsibility of the Owner(s) of the Unit, and shall to the extent awarded by a Court under Chapter 83, Florida Statutes, shall also be the responsibility of the lessee(s).

22.4.2 Other Occupancies (other than Leases). In the event of an existing ownership; or in the event of a sale, gift, devise, inheritance or other transfer of title; and the occupancy requirements of this Article 22 are not met at any time, the Association shall be entitled to file for and obtain an injunction order against the Owner(s) of the Unit and all occupants in the Unit, removing the unauthorized occupants (including the Owner(s)). In that event, if the Association prevails, the Owner(s) shall be responsible for costs and attorneys' fees incurred by the Association in connection with its enforcement of this Article 22.

22.4.3 Proof of Age. Should any person fail or refuse to provide Proof of Age as required under Section 22.7 below, the Association shall be entitled to file for and obtain an injunction order against the person involved, removing the person from the COMMUNITY.

22.5 GRANDFATHER PROVISIONS. Section 22.3 above shall not apply to the following persons, who shall be grandfathered-in (that is, obtain grandfather status) and be permitted to occupy their Unit, even though under the age of 55 years, provided that they meet the requirements for occupancy under Section 22.1 above and they register with the Association as provided for in Section 22.6 below:

22.5.1 Leases. Any lessee(s) and other occupants of a Unit under a valid and approved written lease, provided that the lease was fully executed prior to the Effective Date of this Amendment, shall obtain grandfather status. This grandfather status for the lessee(s) and other occupants shall apply for the duration of the lease. Furthermore, this grandfather status applies beyond the duration of the lease and with respect to any Unit within the COMMUNITY, only if the particular lessee(s) and/or other occupants were validly occupying the Unit under the lease on the Effective Date of this Amendment.

22.5.2 Other Occupancies (Other Than Leases).

(A) OCCUPANCY ON SEPTEMBER 13, 1988: Any Owner(s) and any persons not mentioned in Section 22.5.1 next above, who WERE validly occupying a Unit as a residence on September 13, 1988, shall obtain grandfather status.

(B) OCCUPANCY AS OF THE EFFECTIVE DATE: Any Owner(s) and any persons not mentioned in Section 22.5.1 next above, who ARE validly occupying a Unit as a residence as of the Effective Date of this Amendment, shall obtain grandfather status.

(C) WINTER RESIDENCE EXCEPTION: Any Owner(s) and any persons not mentioned in Section 22.5.1 above who WERE NOT occupying the Unit as a residence on September 13, 1988 NOR occupying the Unit as of the Effective Date of this Amendment, shall still obtain grandfather status so long as the Owner(s)/person(s) meet the following requirements:

- (1) TITLE: The Owner(s) owned record title to the Unit at any time during the 1988 and/or 1989 calendar years and prior to the Effective Date of this Amendment; and
- (2) OCCUPANCY AS OF THE EFFECTIVE DATE: The Owner(s) had validly occupied the Unit as a residence at any time during the 1988 and/or 1989 calendar years and prior to the Effective Date of this Amendment; as to person(s) who are not record Owner(s), the person(s) validly resided with the record Owner(s) in the Unit during any portion of the 1988 and/or 1989 calendar years and prior to the Effective Date of this Amendment; and
- (3) INTENT TO OCCUPY AFTER THE EFFECTIVE DATE: The Owner(s)/person(s) intend to occupy the Unit as a residence between the Effective Date of this Amendment and December 31, 1989; and
- (4) OCCUPANCY AFTER THE EFFECTIVE DATE: The Owner(s)/person(s) actually occupy the Unit as a residence sometime between the Effective Date of this Amendment and December 31, 1989.

If any one of these four (4) requirements is not met, the grandfather status will not apply or if originally applicable, will become lost.

22.6 REGISTRATION REQUIRED.

22.6.1 All Owners, lessees and occupants must register with the Association on or before June 12, 1989, by delivery of the items referred to below. Furthermore, no person shall attain grandfather status under Section 22.5 above unless the person registers with the Association on or before June 12, 1989, by delivery of the items referred to below. These items are as follows:

- (A) A fully completed and signed registration form to be provided by the Association; and
- (B) Documentation demonstrating proof of age as provided for in Section 22.7 below; and
- (C) In the event of a lease, a fully executed copy of the lease must also be delivered (if not already on file with the Association).

The Association shall mail/deliver a registration form within fifteen (15) days of the Effective Date of this Amendment to all Owners, as their names appear on the books and records of the Association. It shall be the responsibility of the particular Owner, not the Association, to provide the lessee(s) and/or other occupants in the Unit with the registration form for the lessee(s)/occupant(s) to complete and return to the Association.

22.6.2 Even though a person under the age of 55 years is given grandfather status, this shall not entitle the permanent occupancy in the Unit by any other person unless:

(A) That other person is 55 years of age or older; or

(B) That other person is also accorded grandfather status under Section 22.5 above.

22.7 PROOF OF AGE.

22.7.1 AS OF THE EFFECTIVE DATE: All Owner(s) and all non-Owners occupying the Units as of the Effective Date of this Amendment; and all persons referred to in Section 22.5 above; shall deliver to the Association, documentation demonstrating Proof of Age, to include birth certificate and/or any other documentation required by the Association. This applies regardless of the age of the persons or whether they seek grandfather status under Section 22.5 above.

22.7.2 AFTER THE EFFECTIVE DATE: All Owner(s) who obtain record title after the Effective Date of this Amendment and all persons who permanently occupy the Units after the Effective Date of this Amendment shall, prior to the obtaining record title and/or taking permanent occupancy and/or as part of the approval process under Article 17 above, deliver to the Association, documentation demonstrating Proof of Age as provided for in this Section 22.7.

22.8 NON-OCCUPANCY STATUS. Each Owner or lessee, as applicable, shall notify the Association of any periods of time during which the Unit becomes unoccupied. As used in this Section 22.8, "unoccupied" is defined to mean any intended absence of all permanent residents of the Unit, for a period of in excess of thirty (30) days. It is understood that this is a necessary requirement because the ADMINISTRATIVE RULES require record keeping of occupied and unoccupied Units. The Association shall be authorized to adopt a form for use by Owners and lessees in connection with the reporting under this Section 22.8.

22.9 EFFECTIVE DATES.

22.9.1 Section 22.1 above incorporates original provisions of the Declaration of Condominium. Accordingly, the Effective Date of Section 22.1 above is the effective date of the recording of the particular original Declaration.

22.9.2 Sections 22.2 through 22.8 above are new provisions and as such, have an Effective Date which is the date on which this Amendment is recorded in the Public Records of Indian River County, Florida."

VISTA DEL MAR
LEGAL DESCRIPTION
for
BUILDING "D"

Start at a concrete marker located at the point of intersection of the north line of the South 765.0 feet of Government Lot 8; Section 19, Township 32 South, Range 40 East and the easterly right of way of A-1-A; said concrete marker being shown on the Plat of Vista Del Mar, recorded in Plat Book 8, Page 47 of the Indian River County, Florida Public Records; Thence run South 17°56'21" East along the above mentioned easterly right of way of A-1-A for a distance of 170.36 feet to a point; said point being the point of beginning of the following described parcel; Thence continue South 17°56'21" East for a distance of 295.40 feet to a point; Thence run North 72°03'39" East for a distance of 11.71 feet to a point; Thence run North 57°03'39" East for a distance of 183.64 feet to a point; Thence run North 29°44'41" East for a distance of 113.60 feet to a point; Thence run North 32°56'21" West for a distance of 38.29 feet to a point; Thence run North 00°07'31" West for a distance of 26.87 feet to a point; Thence run South 89°52'29" West for a distance of 98.00 feet to a point; Thence run South 57°03'39" West for a distance of 18.45 feet to a point; Thence run South 89°52'29" West for a distance of 273.38 feet to the Point of Beginning.

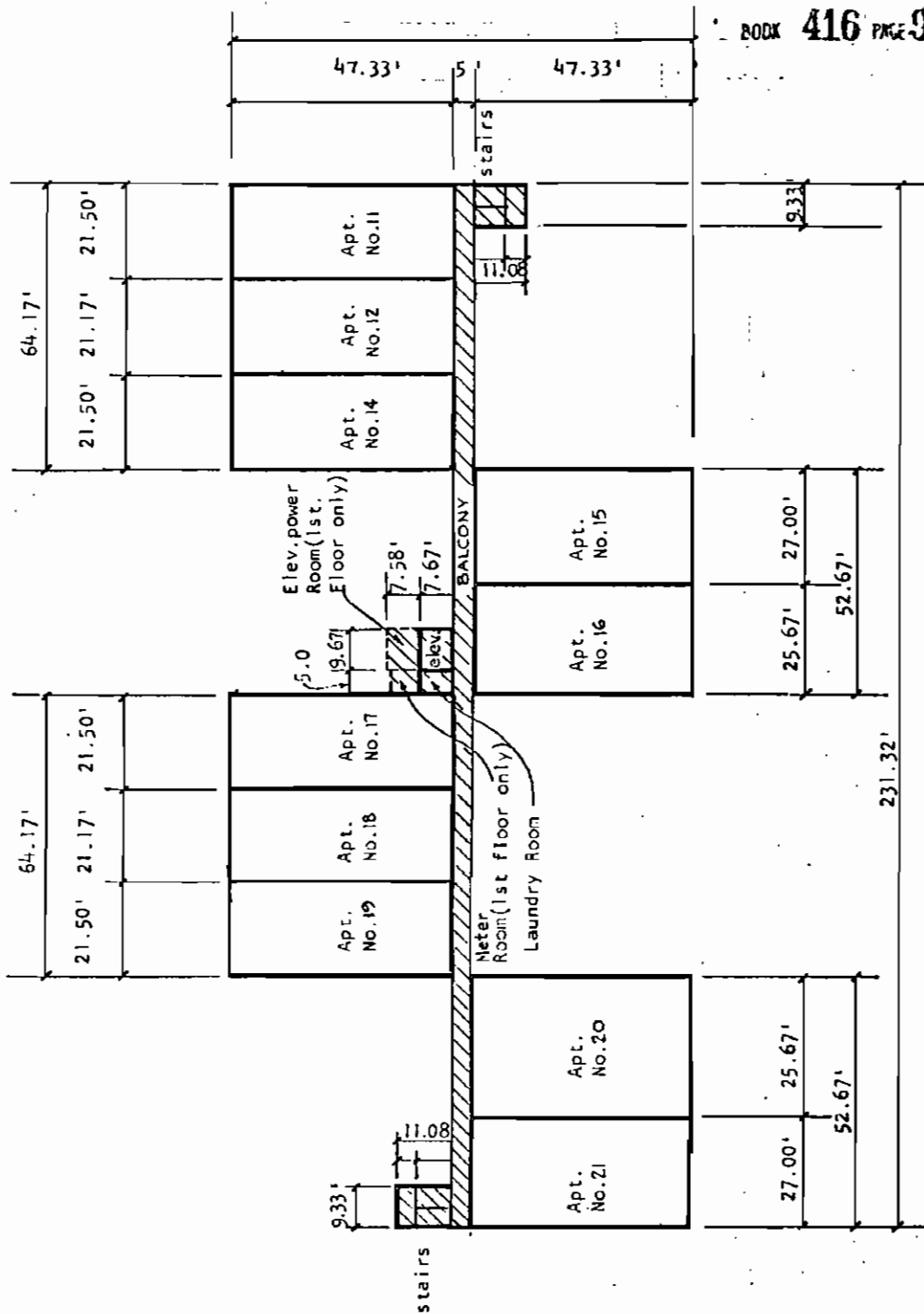
EXH.
"A"

EENLEES, MONTGOMERY & ASSOCIATES, INC. Engineers Professional Exchange Building STUART, FLORIDA	VISTA DEL MAR LEGAL DESCRIPTION for BUILDING "D" INDIAN RIVER COUNTY, FLORIDA July 31, 1972
---------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------

VISTA DEL MAR APARTMENT BUILDING D,
A CONDOMINIUM

The Developer by the filing of this Declaration of Condominium creates a road easement along the Northerly side of the land submitted to the Condominium Form of Ownership, as shown upon the foregoing survey. Said easement is reserved and created for the use and benefit of the owners of all Condominium Apartments for which DEL MAR ASSOCIATION, INC., a Florida not for profit corporation, has and will have operating responsibilities, their heirs, successors and assigns; and for the use and benefit of all persons who may from time to time become owners of, or become entitled to use, any portion of the lands upon which said Condominium Apartments may be located, their heirs, successors and assigns.

EXHIBIT B



FLOOR ELEV. 20.05

CEILING ELEV. 28.11

COMMON ELEMENTS, LOCATION AND DIMENSIONS OF
 VISTA DEL MAR APARTMENT BUILDING D - SECOND FLOOR
 A CONDOMINIUM
 INDIAN RIVER COUNTY, FLORIDA

REYNOLDS, MONTGOMERY & ASSOCIATES, INC.

Engineers

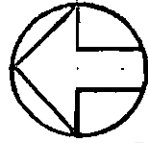
Professional Exchange Building
 STUART, FLORIDA

Notes: 1/11/77

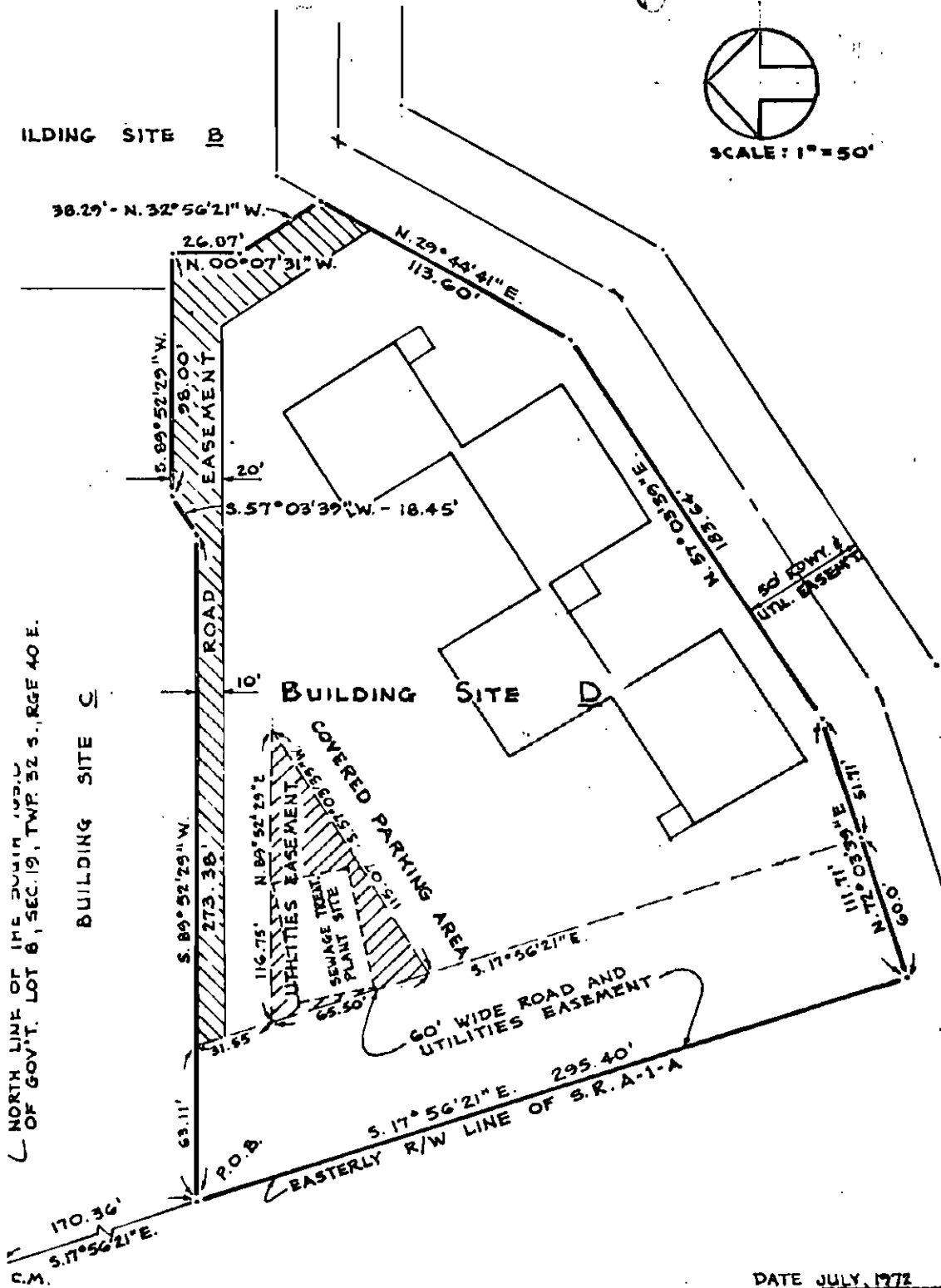
Scale: 1"=30'

EXHIBIT C

BUILDING SITE B



SCALE: 1" = 50'



EXH
"B"

SURVEY OF LAND
VISTA DEL MAR - BUILDING D - A CONDOMINIUM
INDIAN RIVER COUNTY, FLORIDA

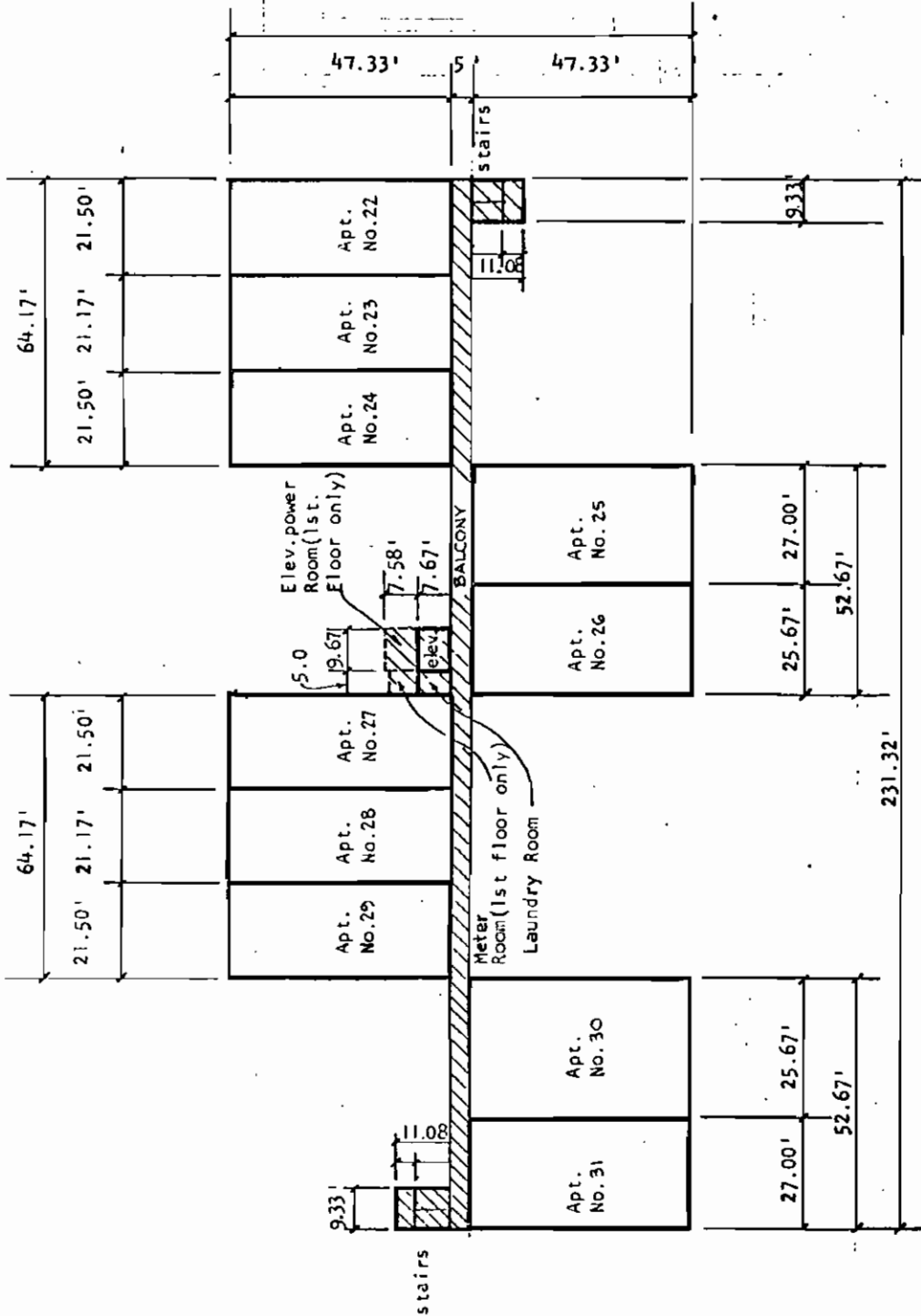
ENLERS, MONTGOMERY & ASSOCIATES, INC.
 Engineers
 Professional Exchange Building
 STUART, FLORIDA

SURVEYOR'S CERTIFICATE

I, the undersigned Regist. Land Surveyor, hereby certify that on July 14th, 1972, this property was surveyed and this Survey of Land is a true representation of the lands in the attached description to the best of my knowledge and belief.

Joseph S. Greenlees
 Joseph S. Greenlees, R.L.S., Fla. Cert. #665

COMMON ELEMENTS



FLOOR ELEV. 29.14

CEILING ELEV. 37.10

COMMON ELEMENTS, LOCATION AND DIMENSIONS OF
 VISTA DEL MAR APARTMENT BUILDING D - THIRD FLOOR
 A CONDOMINIUM
 INDIAN RIVER COUNTY, FLORIDA

SHENLERS, MONTGOMERY & ASSOCIATES, INC.

Engineers

Professional Exchange Building
 STUART, FLORIDA

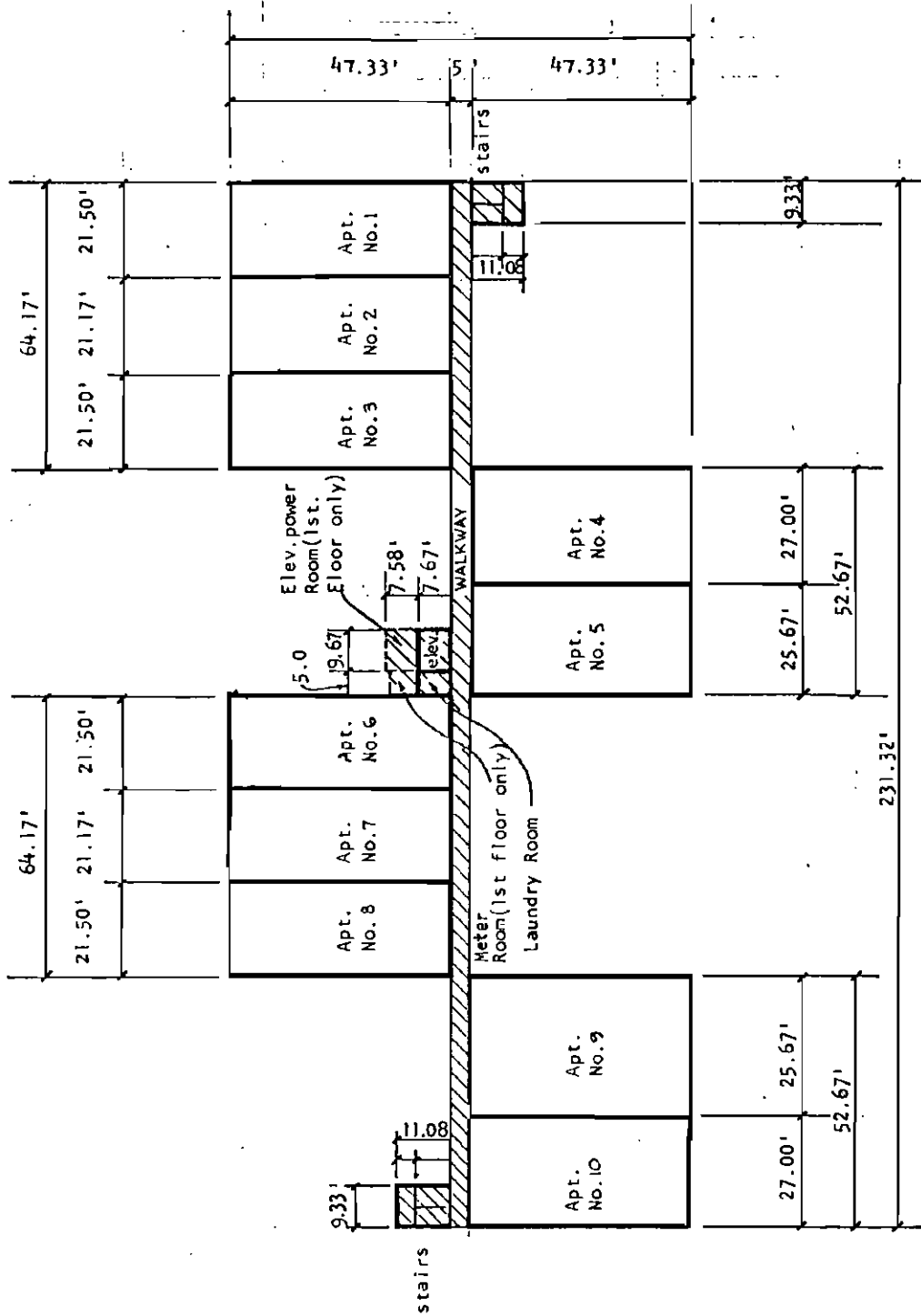
Date: July, 1972

Scale: 1"=30'

EXHIBIT C

BOOK 416 PAGE 974

COMMON ELEM. IS



EXH
"C"

FLOOR ELEV. 10.96

CEILING ELEV. 19.02

COMMON ELEMENTS, LOCATION AND DIMENSIONS, OF
 VISTA DEL MAR APARTMENT BUILDING D - FIRST FLOOR
 A CONDOMINIUM
 INDIAN RIVER COUNTY, FLORIDA

GREENLEES, MONTGOMERY & ASSOCIATES, INC.

Engineers

Professional Exchange Building
STUART, FLORIDA

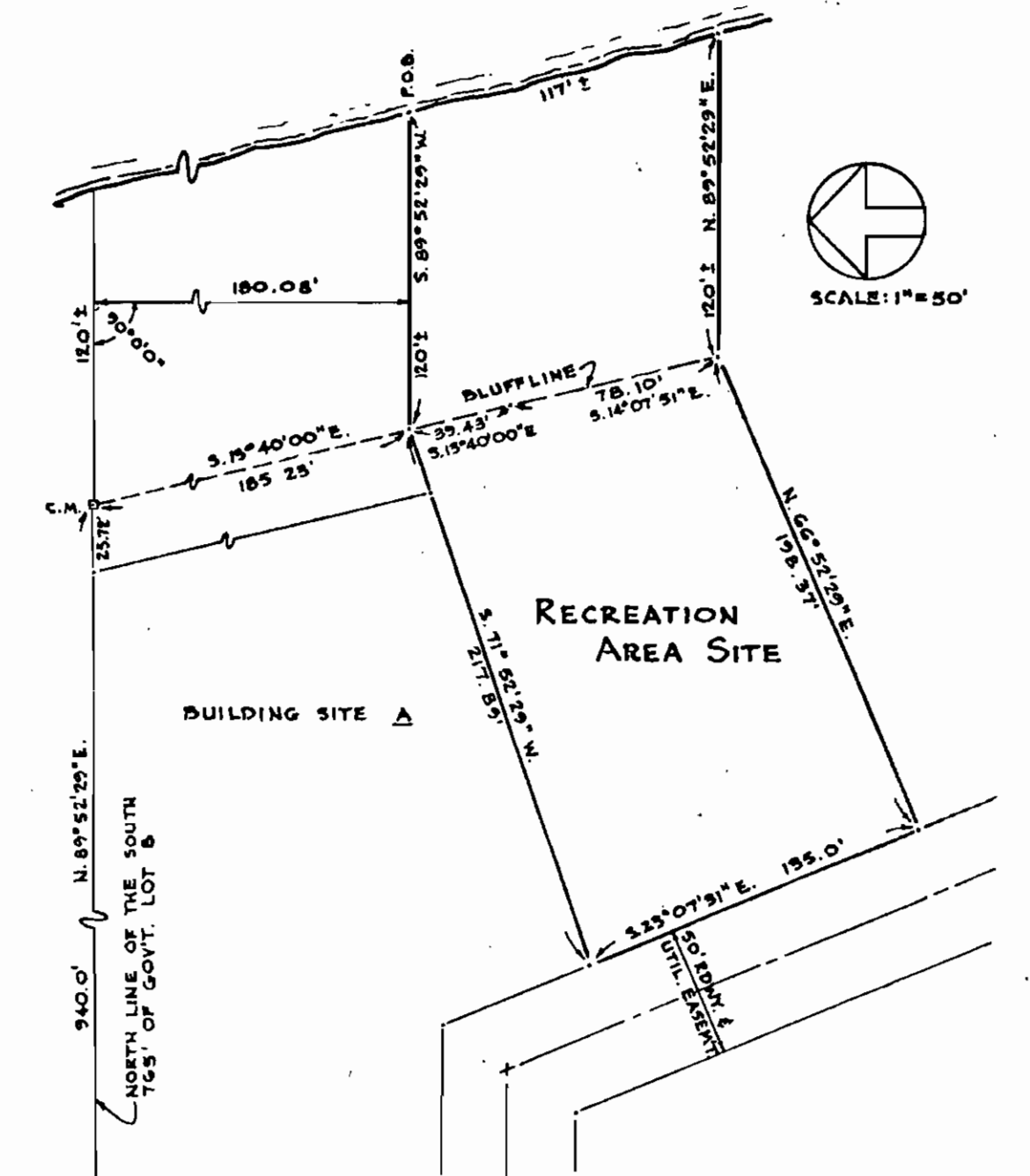
Dated July, 1972

Scale: 1"=30'

EXHIBIT C

116,000

ATLANTIC OCEAN



SCALE: 1" = 50'

SURVEYOR'S CERTIFICATE

I, the undersigned Reg. Land Surveyor, hereby certify that on July 14th, 1972, this property was surveyed and this Survey of Land is a true representation of the lands in the attached description to the best of my knowledge and belief.

Joseph S. Greenlees
Joseph S. Greenlees, R.L.S., Fla. Cert #665

GREENLEES, MONTGOMERY & ASSOCIATES, INC.
Engineers
Professional Exchange Building
STUART, FLORIDA

LOCATION AND DIMENSIONS OF PREMISES LEASED
BY DEL MAR ASSOCIATION, INC.
INDIAN RIVER COUNTY, FLORIDA
Date: 14 July, 1972 Scale: 1" = 50'

VISTA DEL MAR
LEGAL DESCRIPTION
for
RECREATION AREA

Start at a concrete marker located at the point of Intersection of the North line of the South 765.0 feet of Government Lot 8; Section 19, Township 32 South, Range 40 East and the easterly right of way of A-1-A; said concrete marker being shown on the Plat of Vista Del Mar as recorded in Plat Book 8, Page 47 of the Indian River County, Florida Public Records; Thence run North $89^{\circ}52'29''$ East along said North line of the South 765.0 feet of Government Lot 8 for a distance of 940.0 feet to a concrete marker as shown in said plat; Thence run South $13^{\circ}40'00''$ East (along a line shown as the Bluffline on said Plat) for a distance of 185.23 feet to a point; Thence run North $89^{\circ}52'29''$ East along a line parallel to said North line of the South 765.0 feet of Government Lot 8 and 180.08 feet South of same as measured at right angles thereto for a distance of 120 feet, more or less, to the mean high water mark of the Atlantic Ocean; said point being the point of beginning for the following described parcel; Thence return South $89^{\circ}52'29''$ West along the previously described line for a distance of 120 feet, more or less, to the point on the Bluffline, said point being 185.23 feet South $13^{\circ}40'00''$ East of the previously described concrete marker; Thence run South $71^{\circ}52'29''$ West for a distance of 217.89 feet to a point on the easterly right of way of the road right of way as dedicated in above mentioned plat of Vista Del Mar; Thence run South $23^{\circ}07'31''$ East along said right of way for a distance of 135.0 feet to a point; Thence run North $66^{\circ}52'29''$ East for a distance of 198.37 feet to a point on the previously referred to Bluffline as shown on the recorded plat of Vista Del Mar; Thence run North $89^{\circ}52'29''$ East along a line parallel to the first call in this description for a distance of 120 feet, more or less, to the mean high water mark of the Atlantic Ocean; Thence meander said shoreline in a northwesterly direction for a distance of 117 feet, more or less, to the Point of Beginning.

GREENLEES, MONTGOMERY & ASSOCIATES, INC.

Engineers
Professional Exchange Building
STUART, FLORIDA

VISTA DEL MAR
LEGAL DESCRIPTION
for: RECREATION AREA
INDIAN RIVER COUNTY, FLORIDA
July 31, 1972

APPROVED AND FORWARDED
BY THE COUNTY ENGINEER

EXHIBIT C

BOOK 116 PAGE 070

APARTMENT

INTEREST IN COMMON ELEMENTS

1	1 Bedroom	3.0469%
2	1 Bedroom	3.0469%
3	1 Bedroom	3.0469%
4	2 Bedroom Plan B	3.8618%
5	2 Bedroom Plan A	3.6644%
6	1 Bedroom	3.0469%
7	1 Bedroom	3.0468%
8	1 Bedroom	3.0468%
9	2 Bedroom Plan A	3.6644%
10	2 Bedroom Plan B	3.8618%
11	1 Bedroom	3.0468%
12	1 Bedroom	3.0468%
14	1 Bedroom	3.0468%
15	2 Bedroom Plan B	3.8618%
16	2 Bedroom Plan A	3.6644%
17	1 Bedroom	3.0468%
18	1 Bedroom	3.0468%
19	1 Bedroom	3.0468%
20	2 Bedroom Plan A	3.6644%
21	2 Bedroom Plan B	3.8618%
22	1 Bedroom	3.0468%
23	1 Bedroom	3.0468%
24	1 Bedroom	3.0468%
25	2 Bedroom Plan B	3.8618%
26	2 Bedroom Plan A	3.6644%
27	1 Bedroom	3.0468%
28	1 Bedroom	3.0468%
29	1 Bedroom	3.0468%
30	2 Bedroom Plan A	3.6644%
31	2 Bedroom Plan B	<u>3.8618%</u>

100%

EXH.
"E"

State of Florida

Department of State



I, Richard (Dick) Stone, Secretary of State of the State of Florida,
Do Hereby Certify That the following is a true and correct copy of

Certificate of Incorporation
of

DEL MAR ASSOCIATION, INC.

a corporation not for profit organized and existing under the Laws of the
State of Florida, filed on the 3rd day of May
A.D., 1972, as shown by the records of this office.

Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital,
this the 4th day of May
A.D. 1972.

EXH
"H"
P. J. C.
Inc. P.



Richard (Dick) Stone

Secretary of State

EXHIBIT H

OFFICIAL DOCUMENTS

OF THE

DEL MAR ASSOCIATION

(As Amended Through 2002)

- 1. Declaration of Condominium**
- 2. Articles of Incorporation**
- 3. Bylaws**
- 4. Rules and Regulations**

TABLE OF CONTENTS

Declaration of Condominium

Exhibit A (A description of the land owned by the Developer which was submitted to the condominium form of ownership. Referred to in Section 3.of the Declaration)

Exhibit B (A survey showing the location of improvements and common elements, as well as a document creating a road easement. Referred to Section 5.1 of the Declaration)

Exhibit C (Plot plans showing the location and dimensions of each apartment in Building ____, and of common elements within or attached thereto, and the location dimensions and description of the premises leased by the Association under the Long Term Lease. Referred to in Section 5.2 of the Declaration.)

Exhibit D (A surveyor's certificate concerning the validity of the survey and plot plans. Referred to in Section 5.3 of the Declaration.)

Exhibit E (A schedule showing the types of apartments of the condominium and the percentages of the common elements attributable to each. Referred to Sec. 6 of the Declaration.)

EXHIBIT F (This is the **Long Term Lease** which is referred to in Section 7 of the Declaration, and which was terminated in 1977. Accordingly, it is not included.)

EXHIBIT G (This is the **Management Agreement** which was cancelled _____)

EXHIBIT H **Articles of Incorporation**

EXHIBIT I **Bylaws of the Association**

AMENDMENTS to Documents

RULES AND REGULATIONS