

**DECLARATION OF CONDOMINIUM
OF
OCEAN GARDEN CONDOMINIUM**

This Declaration made this 9 day of August, 2006, by **FISH LIPS, INC., a Florida corporation**, (hereinafter called "Developer"), for itself, its successors, grantees and assigns.

WHEREIN, the Developer makes the following declarations:

1. Purpose and Submission Statement. The purpose of this Declaration is to submit, and the Developer does hereby submit, the property as described in Exhibit A-1 of this instrument, and improvements on those lands to the condominium form of ownership and use in the manner provided by The Condominium Act, (hereinafter "The Condominium Act") as it exists on the date hereof, currently designated as Chapter 718, Florida Statutes.

1.1 Name and address. The name by which this condominium is to be identified is OCEAN GARDEN CONDOMINIUM, and its address is 102 S. Peninsula Drive, Daytona Beach, Florida.

1.2. The Real Property to be Submitted to Condominium Ownership. The real property to be submitted to condominium ownership is owned in fee simple by Developer, and is located in Volusia County, Florida. The real property to be submitted is described on Exhibit A-1, attached hereto.

2. Definitions. The terms used in this Declaration shall have the meaning stated in The Condominium Act if defined therein. Other terms are defined as follows, unless the context otherwise requires:

2.1. Assessment means a share of the funds which are required for the payment of common expenses, which from time to time is assessed against the Unit Owner, and may be either a Regular Assessment or a Special Assessment.

2.2. Association means **Ocean Garden Association, Inc.**, and its successors.

2.3. Board of Directors means the Board of Directors elected or appointed in accordance the Bylaws of the Association.

2.4 Bylaws means Bylaws of the Association.

2.5. Common Elements means the portions of the Condominium Property not included in the Units.

2.6. Common Expenses means all expenses properly incurred by the Association in the performance of its duties, including expenses of the operation, maintenance, repair, replacement, or protection of the condominium and association property, costs of carrying out the powers and duties of the association, and any other expense, whether or not included in

the foregoing, designated as common expense by The Condominium Act, this Declaration, the documents creating the association, or the Bylaws. Common Expenses also include reasonable transportation services, insurance for directors and officers, parking area expenses, in-house communications, and security services, which are reasonably related to the general benefit of the Unit Owners even if such expenses do not attach to the Common Elements or property of the Condominium.

- 2.7. The Condominium means **OCEAN GARDEN CONDOMINIUM**.
- 2.8. Condominium Property means the real property that is subjected hereby to condominium ownership, all improvements thereon, all Personal Property acquired by the Association, and all easements and rights appurtenant thereto intended for use in connection with the Condominium.
- 2.9. Condominium Parcel means a Unit together with the undivided share in the condominium that is appurtenant to the Unit.
- 2.10. Limited Common Elements means those Common Elements that are reserved for the use of a certain Unit or Units to the exclusion of all other Units, as specified herein. There are no Limited Condominium Elements in this Condominium.
- 2.11. Regular Assessment means an Assessment imposed pursuant to the annual budget, and does not mean a Special Assessment.
- 2.12. Rules and Regulations means those rules and regulations respecting the use of the Condominium Property that have been adopted by the Association from time to time in accordance with its Bylaws.
- 2.13. Special Assessment means any assessment levied against a Unit Owner other than the assessment required by the annual budget
- 2.14. Unit means the part of the Condominium Property that is subject to exclusive ownership.
- 2.15. Unit Owner means a record owner of legal title to a condominium parcel.
- 2.16. Utility services as used in The Condominium Act, and as construed with reference to this Condominium, and as used in the Declaration and Bylaws shall include but not be limited to electric power, water, cable television or master antenna, and garbage and sewage disposal.
- 2.17. Institutional Mortgage means a mortgage originally executed and delivered to an Institutional Mortgagee, which means a mortgage banker, mortgage lender, bank, savings and loan association, real estate investment trust, insurance company or Developer, including Developer's subsidiaries and affiliates.

3. Development plan. The Condominium is described and established as follows:

- 3.1. Survey. A survey of the land showing the location of the improvements and the proposed improvements, with Surveyor's Certificate shall be attached as Exhibit A-6.
- 3.2. Plans. The improvements upon the land consist of an existing apartment building

to be converted to condominium, as shown on the Survey and Plot Plan attached as Exhibit A-1 as well as the Floor Plans, attached as Exhibit A-2 through A-5.

3.3. Easements.

A. Easements over Common Elements. A non-exclusive easement for ingress and egress in favor of each Unit Owner is hereby created over the driveways, walkways, parking areas, stairs and other Common Elements as part of the Common Elements to provide each Unit Owner access to the public ways. No easement for ingress or egress shall be encumbered. A Unit Owner shall do nothing within or outside the Owner's Unit that interferes with or impairs the utility services or the right to ingress and egress. Developer reserves an easement over and through all of the Common Elements of the Condominium for sales purposes and may maintain a sales office and models on the Condominium Property until all of the Units of the Developer have been sold. The last mentioned provision may not be amended without the written consent of Developer. During such time as the Developer, its successors or assigns, is in the process of renovation of any portion of a building within the Condominium the Developer, its successors or assigns, reserves the right to prohibit access to any portion of the Common Elements of the in the area of the renovation, and to utilize various portions of the Common Elements in connection with such renovation. No Unit Owner or his guests, or invitees shall in any way interfere with or hamper the Developer, its employees, agents, subcontractors, successors or assigns, in connection with such renovation. Thereafter, during such time as the Developer, its successors or assigns, owns any Units within the building and is carrying on any business in connection therewith, including the selling, renting or leasing of such Units, the Unit Owners, their guests and invitees shall in no way interfere with such activities or prevent access to such Units by the Developer, its successors or agents. The association has full right and authority to grant permits, licenses, and easements over the Common Elements for utilities, road rights-of-way, and other purposes reasonably necessary or useful for the proper maintenance and/or operation of the Condominium.

B. Encroachments. In the event that any unit encroaches upon common elements or any other unit, or common elements encroach on any unit, as the result of a variation in location of the boundaries of units or common elements in the construction, reconstruction, repair, shifting, settlement or other movement of Improvements, so long as the physical size and location of the Improvements is in substantial compliance with the boundaries as described in the Declaration, an easement shall automatically exist to permit the encroachment for so long as the encroachment exists. However, any such encroachment caused by the act of a Unit Owner shall not create such an easement.

C. Other Easements. Easements for general drainage, maintenance, access and utilities are granted to the Unit Owners, the Association, Volusia County, and all applicable governmental entities, over and upon the Common Elements.

3.4. Improvements - General description.

A. Unit Description. All Units have been assigned identifying numbers as depicted on Exhibit A-3 through A-5. No Unit bears the same number as any other Unit. The Condominium will consist of one (1) building, with a total of Twenty-Seven (27) Units. The Units shall be numbered consecutively as described in 4.1 below.

B. Other Improvements. In addition to the improvements described above, the Condominium includes a parking area and a Courtyard, which are part of the Common Elements and confined to the surveyed Condominium Property.

3.5. Unit boundaries. The dimensions of each Unit are shown in Exhibits A-3 through A-5, attached hereto, and shall include that area, the boundaries of which are further described as follows:

A. Horizontal Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the vertical boundaries:

- 1) Upper Boundary shall be the horizontal plane of the undecorated, finished ceiling.
- 2) Lower Boundary shall be the horizontal plane of the undecorated finished floor.

B. Vertical (Perimetrical) Boundaries. The vertical boundaries of the unit are the vertical planes of the undecorated and/or unfinished inner surfaces of the walls bounding the unit extended to intersections with each other and with the unit's upper and lower boundaries. Exhibits A-3 through A-5 shows the perimeter boundaries of the units and the approximate dimensions of such boundaries, the walls separating each room within the units and the approximate dimensions of each room and the location of all doorways.

C. Boundaries - Further defined. The boundaries of the unit shall not include any spaces or improvements lying within the undecorated and/or unfinished inner surfaces of the perimeter walls, those surfaces above the undecorated finished ceilings of each unit, or those surfaces below the undecorated finished floor of each unit, and further shall not include those spaces and improvements lying within the undecorated and/or unfinished inner surfaces of interior bearing walls and/or bearing partitions, and further, shall exclude all pipes, ducts, wires, conduits and other utilities running through an interior wall or partition for the furnishing of utility services to other units and/or for common elements.

3.6. Portions of the Unit Located Outside the Boundaries.

A. The Unit shall include the heating, hot water and air conditioning apparatus exclusively serving the Unit whether or not located within the boundaries of the Unit.

B. The Unit shall include any chute, flue, duct, wire, conduit, bearing wall, bearing column, air conditioning or heating compressor or equipment, any other fixture which lies completely or partially outside the designated boundaries of a Unit but which serves only that Unit.

C. The Unit shall include any shutters, doorsteps, stoops, and all exterior doors, and windows, (including sliding glass doors) window and door screens, and all other fixtures and/or exterior protrusions attached to or designed to serve a single Unit, and which serves only that Unit, even though such fixtures are located outside the Unit's boundaries.

3.7. Common Elements. All property included in this Condominium that is not a portion of any Unit and which has not been designated as a limited common element shall be deemed Common Elements. There are no limited common elements.

A. Automobile parking. Each Unit shall have one (1) designated numbered parking space, which shall be assigned by the Developer initially, and later by the Association. All unnumbered parking spaces are for the general use of the Owners as well as guests. No

Unit Owner may regularly park on the Condominium Property more than two vehicles, one of which shall be parked in the Unit's designated space and the other of which may be parked in any general parking space. Each Unit Owner shall be given a parking decal indicating the parking space that they are designated to use.

B. Laundry Room. The laundry room is part of the Common Elements. Developer shall donate the existing laundry machines to the Association in as is condition.

C. Use; charges. The Common Elements other than limited Common Elements shall be available for use by all Unit Owners without discrimination and without charge.

4. The Units. The Units of the Condominium are described more particularly, and the rights and the obligations of their Owners are established as follows:

4.1. Unit numbers. Each Unit shall be assigned a number, beginning with number 1 and running consecutively to number 27, as depicted on Exhibits A-3 through A-5.

4.2. Typical Unit plans. The floor plans for the different types of Units are set forth in Exhibits A-3 through A-5.

4.3. Appurtenances to Units. The Owner of each Unit shall own a share of Common Elements as an appurtenance to the Unit, including but not limited to the following items that are appurtenant to the several Units as indicated:

A. Ownership of Common Elements and Common Surplus. The undivided share in the land and other Common Elements and in the common surplus that are appurtenant to each Unit is as follows:

an undivided 1/27 share

27 Units x 1/27 = 1

There is no distinction based on the size of the Unit.

B. Use of Common Elements. Each Owner shall have as an appurtenance to a Unit, the use of the Common Elements in common with other Unit Owners in the manner elsewhere described.

C. Use of Limited Common Elements. There are no limited common elements.

D. Condominium Association Membership. Each Unit Owner shall be a Member of and have an interest in the funds, assets and common surplus held by the Condominium Association.

4.4. Liability for common expenses. Each Unit Owner shall be liable for a proportionate share of the Common Expenses, that share being the same as the undivided share in the Common Elements appurtenant to the Unit owned by the Unit Owner.

5. Maintenance, alteration and improvement. Responsibility for maintenance of the

Condominium Property, and restrictions upon its alteration and improvement, shall be as follows:

5.1. Units.

A. Maintenance By the Association. The Association shall maintain, repair and replace at the Association's expense:

The Association is not responsible for any maintenance of Units.

B. Maintenance By the Unit Owner. The responsibility of the Unit Owner shall be as follows:

To maintain, repair and replace at the Owner's expense all portions of the Unit. This shall be done without disturbing the rights of other Unit Owners.

The portions of a Unit to be maintained, repaired and replaced by the Unit Owner at his expense shall include but not be limited to the following items: windows, screens, sliding glass doors, air handling equipment for cooling and heating of the Unit, service equipment, such as dishwasher, refrigerator, oven and stove, whether or not these items are built-in equipment; interior fixtures such as electrical and plumbing fixtures; floor coverings except the floor slab, and inside paint and other inside wall and ceiling finishes. Mechanical equipment and the installation of that equipment shall be such that its operation will not cause annoyance to the occupants of other Units.

Unit Owners shall report promptly to the Association any defect or need for repairs for which the Association is responsible.

C. Alteration and improvement. Except as elsewhere provided, neither a Unit Owner nor the Association shall make any alteration in a Unit other than surface alterations that do not affect the integrity of the structure, or remove any portion of a Unit, or make any additions to a Unit, or do anything that would jeopardize the safety or soundness of the building, including but not limited to, drilling, boring, cutting or sawing into the floor or ceiling of a Unit, or impair any easement without first obtaining approval in writing of Owners of all Units in which the work is to be done and the Owners of all Units affected by the work to be done and the approval of the Board of Directors of the Association. If the alteration or improvement will change the appearance of any portion of the exterior of the building, the change in appearance shall be approved also by the Owners of 75% of the Common Elements at a meeting of the Unit Owners called for that purpose. A copy of plans for all work prepared by an architect licensed to practice in the State shall be filed with the Association prior to the start of the work. The Board of Directors shall permit hurricane shutters, pursuant to 718.113(5) Florida Statutes, or other shutters or awnings meeting specifications adopted by the Board of Directors. No Unit Owner shall permit a change in appearance of any portion of the Condominium building and/or Condominium Property without the consent of the Association.

5.2. Common elements.

A. Maintenance By the Association. The maintenance and operation of the Common Elements and Limited Common Elements shall be the responsibility of the Association and the cost shall be a common expense. Any cost of maintaining or repairing Limited Common Elements that is allocable to a particular Unit shall be charged to the Unit. The Association

shall maintain:

All boundary walls and boundary slabs of a Unit, except interior surfaces; all portions of a Unit contributing to the support of the building, which portions to be maintained shall include but not be limited to the outside walls of the building and all fixtures on its exterior, boundary walls of Units, floor and ceiling slabs, load-bearing columns and load-bearing walls.

All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services contained in walls or space that are not part of a Unit unless such conduits, ducts, plumbing, wiring or other facility serves only the Unit to which it is adjacent; and all such facilities contained within a Unit that service part or parts of the Condominium other than the Unit within which contained; and

All incidental damage caused to a Unit by work performed by the Association shall be repaired promptly at the expense of the Association.

B. Alteration of Common Elements by Developer. There shall be no alteration of the Common Elements or acquisition of additional properties without prior approval in writing by the Owners of not less than Seventy-Five (75%) Percent of the voting interest. Such will also require the approval of HUD or the VA if required by the regulations of such agency as a condition of approving loans on Units within the Condominium.

C. Disposition of personal property. Any personal property acquired by the Association may be sold or mortgaged or otherwise disposed of by the Association.

6. Assessments. The making and collection of assessments against Unit Owners for common expenses shall be pursuant to the Bylaws and subject to the following provisions:

6.1. Share of common expense. Each Unit Owner, regardless of how his or her title has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, shall be liable for a proportionate share of the common expenses that come due while the Unit Owner owns the Unit. Additionally, a Unit Owner is jointly and severally liable with the previous Owner for all unpaid assessments that came due prior to transfer of title. This liability is without prejudice to any right the Owner may have to recover from the previous Owner the amounts paid by the Owner. In the event of default in the payment of assessments, the Unit Owner shall be liable, in addition to the assessment, for interest and costs of collection, including reasonable attorney's fees, and shall share in the common surplus, those shares being the same as the undivided share in the Common Elements appurtenant to the Unit. Each assessment against a Unit is the personal obligation of the Unit Owner at the time the assessment becomes due.

6.2. Interest; application of payments. The portions of assessments and installments on assessments that are not paid when due shall bear interest at the highest rate allowed by law from the date when due until paid. Any payment received by the Association shall be applied first to any interest accrued, then to the late charge, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessment.

6.3. Late Payments.

A. Late Charges. Assessment installments that are unpaid for a period of Five (5) days after date due shall bear interest at the rate of eighteen (18%) percent per

annum from the due date until paid. In addition, a late charge of the greater of twenty-five (\$25.00) dollars or five (5%) percent of a delinquent installment, or if the applicable statute permits a higher late charge, the highest amount permitted by statute, shall be assessed.

B. Liens. The Association shall have a lien upon a Unit for any unpaid assessment or installment on an assessment levied against that Unit, together with interest and late charges thereon, that are not paid when due. The lien for unpaid assessments shall also secure reasonable attorneys' fees, including but not limited to fees for appellate court representation, incurred by the Association incident to the collection of an assessment or enforcement of a lien.

Said lien shall be effective as and in the manner provided for by The Condominium Act and shall have the priorities established by said Act. The Association shall be entitled to bid at any sale held pursuant to a suit to foreclose an assessment lien, and to apply as a cash credit against its bid all sums due as provided herein and encompassed by the lien enforced. In the event of such foreclosure, the Unit Owner may be required by the Court to pay a reasonable rental for the Unit for the period of time said Unit is occupied by the Unit Owner or anyone claiming by, through or under said Unit Owner, and the Plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect same from the Unit Owner and/or occupant.

6.4. Assessments against developer-owned Units. The Developer shall be responsible for assessments on Units it owns.

6.5. Protection of Mortgagee. The lien of a first mortgage held by an Institutional First Mortgagee shall have priority over a lien for assessments. Failure to pay assessments shall not constitute a default as to a loan held by an Institutional Mortgagee unless its mortgage so provides. Furthermore, in accordance with Florida Statute, the liability of a first mortgagee or its successor or assignees who acquire title to a Unit by foreclosure or by deed in lieu of foreclosure for the unpaid assessments that became due prior to the mortgagee's acquisition of title is limited to the lesser of:

1. The unit's unpaid common expenses and regular periodic assessments which accrued or came due during the six (6) months immediately preceding the acquisition of title and for which payment in full has not been received by the association; or

2. One percent of the original mortgage debt. The provisions of this paragraph apply only if the first mortgagee joined the Association as a defendant in the foreclosure action. Joinder of the Association is not required if, on the date the complaint is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location which was known to or reasonably discoverable by the mortgagee.

As a result of non-payment, such unpaid share of Common Expenses or assessments shall be, if possible, collected from the proceeds of the foreclosure sale, if any, which would otherwise accrue to the benefit of the Unit Owner against whom the foreclosure proceedings were maintained, or in the event there are not sufficient funds available for such purpose, then such unpaid share of Common Expenses or assessments shall be determined to be Common Expense collectable from all of the Unit Owners including such acquirer, his heirs, legal representative, successors, and assigns. The lien for assessments and/or dues first becoming due and payable after the recording of said certificate or deed shall not be impaired and shall be effective as to the grantee of such Certificate of Title.

6.6. Rights of lender. If the lender providing the funds to construct the Condominium shall foreclose the lien of its mortgage or shall accept a deed in lieu of foreclosure to itself or its designee, such lender or its designee shall succeed to the rights of and enjoy all of the benefits of the original Developer hereunder.

6.7 Right of Developer to Waive Reserves. Pursuant to Florida statute, prior to turnover of control of the Association to Unit Owners other than Developer, the Developer may vote to waive the reserves or reduce the funding of reserves for the first Two (2) fiscal years of the Association's operation, beginning with the fiscal year in which the Declaration is recorded, after which time reserves may be waived or reduced only upon the vote of a majority of all non-developer voting interests voting in person or by limited proxy at a duly called meeting of the Association. If a meeting of the Unit Owners has been called to determine whether to waive or reduce the funding of reserves, and no such result is achieved or a quorum is not attained, the reserves as included in the budget shall go into effect. After the turnover, Developer may vote its voting interest to waive or reduce the funding of reserves.

6.8 Conversion. This condominium is being created as a conversion of a residential apartment house. The information required by statute regarding the conversion is reflected in the Conversion Inspection Report as attached Exhibit 11. A prior Wood Destroying Organism (WDO) Report reflected Drywood Termites & Fungus (Rot) and damage caused thereby. Treatment and repair have been performed and a clean WDO Report dated 5/5/06 is attached as Exhibit 12.

6.9 Special Assessments. At any time the Board may impose a Special Assessment, which shall have the same force and effect as a regular assessment, to make up a budget shortfall, to obtain funds to pay for an emergency, to fund a payment stream for a note and mortgage in the event of a casualty loss not completely covered by insurance or for repairs and maintenance not covered by Regular Assessments or Reserves. Such special assessment may be imposed by a vote of the Board of Directors, unless it will exceed twenty (20%) percent, in which case a majority of owners present at a properly called meeting may approve the special assessment. In the event a note and mortgage are required as specified herein, the same approval requirements shall pertain.

7. Association. The operation of the Condominium shall be by OCEAN GARDEN ASSOCIATION, INC., a corporation not for profit under the laws of Florida, which shall fulfill its functions pursuant to the following provisions:

7.1. Membership. All Unit Owners, including Developer as to Units owned by the Developer, shall automatically be members of the Association, and their membership shall automatically terminate when they no longer own such an interest.

7.2. Voting Rights. There shall be one vote permitted for each Unit, except that where a Unit is owned by the Association, no vote shall be allowed for such Unit. Where a Condominium Unit is owned by an artificial entity or by more than one person, the entity or all the Owners thereof shall be collectively entitled to the vote assigned to such Unit and such Owners shall, in writing, filed with Association, designate an individual who shall be entitled to cast the vote on behalf of the Owners of such Unit until the authorization is changed in writing.

7.3. Articles of Incorporation. A copy of The Articles of Incorporation of the Association are attached as Exhibit B.

7.4. The Bylaws. A copy of the By-Laws of the Association are attached as Exhibit C.

7.5. Limitation upon Liability of Association. Notwithstanding the duty of the

Association to maintain and repair the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage, other than the cost of maintenance and repair, caused by any injury or damage resulting from latent or unknown condition of the property maintained and repaired by the Association.

7.6. Rosters.

A. Owners of Units. The Association shall maintain a roster of names and mailing addresses of Unit Owners. Each Unit Owner shall furnish to the Association a copy of the record evidence of his title, which evidence shall entitle a new Unit Owner to be included in the roster when ownership has been approved by the Association in the manner elsewhere described. Such roster shall show the name and mailing address of the individual designated in writing by the Unit Owner(s) as entitled to cast the vote assigned to the Unit on behalf of the Owners.

B. Mortgages. The Association shall maintain a roster that shall contain the name and address of each Owner and holder of a mortgage upon a Unit in the Condominium of which notice is given to the Association. This notice shall consist of a copy of the recorded instrument evidencing the interest of the mortgagee, which term when used in this Declaration shall include any Owner and holder of a mortgage. The mortgagee shall be stricken from the roster upon receipt by the Association of a request from the mortgagee or of a certified copy of a recorded release or satisfaction of the mortgage. Notice of the removal shall be given to the mortgagee unless the removal is requested by the mortgagee.

7.7. Restraint upon Assignment of Shares in Assets. The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his Unit.

7.8. Approval or Disapproval of Matters. Whenever the decision of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, that decision shall be expressed by the same person who would cast the vote of that Owner if in an Association meeting.

7.9 Inspection of Condominium Documents. Members of the Association, their authorized representatives and the holders of Institutional Mortgages securing first mortgages on units in the condominium, shall be entitled to inspect the Official Documents as described in Florida Statute §718.111(12) and (13).

8. Insurance. The hazard, windstorm, flood, liability and other casualty insurance, as applicable, that may be purchased by the Association shall be governed by the following provisions:

A. Purchase. All insurance policies required for the benefit of the Association shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida.

B. Named Insured. The named insured shall be the Association individually and as agent for the Owners of Units covered by the policy without naming them, and shall include mortgagees listed in the roster of mortgagees who hold mortgages upon Units covered by the policy, whether or not the mortgagees are named. Unit Owners may obtain insurance coverage at their own expense upon their personal property and for their personal liability.

C. Custody of policies and payment of proceeds. All policies purchased by the Association shall provide that payments for losses made by the insurer shall be paid to the

Association, and all policies and endorsements on them shall be held by the Association.

D. Approval of company issuing and form of policies, etc. Each policy shall be in a form and amount and written by an insurance company approved by the Board of Directors of the Association. A copy of each policy shall be furnished to each institutional mortgagee upon request.

8.1. Coverages.

A. Casualty. The Association shall obtain and maintain adequate insurance, in an amount equal to the maximum insurable replacement values insuring the Association, the Association Property, the Common Elements, and the Condominium Property required to be insured by the Association. Every hazard policy purchased to protect a building shall provide that the word "building" wherever used in the policy includes, but is not necessarily limited to, fixtures, installations, or additions comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors, and ceilings of the individual Units initially installed, or replacements thereof of like kind or quality, in accordance with the original plans and specifications, or as they existed at the time the Unit was initially conveyed if the original plans and specifications are not available. The coverage shall exclude foundation and excavation costs, that part of the value of each Unit occasioned by special improvement not common to Units otherwise comparable in construction and finish, and all increases in value of Units occasioned by alterations, betterments and further improvement. Values of insured property shall be determined annually by the Board of Directors of the Association after receiving the advice of the insurance carrier writing the insurance. Insurance coverage shall afford protection against:

Loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and such other risks as from time to time shall be customarily covered with respect to building similar in construction, location and use as the Condominium Property. The bailee liability, if any, of the Association to Unit Owners shall be insured. The policies shall state whether the following items are included within the coverage in order that Unit Owners may insure themselves if the items are not insured by the Association: air handling equipment for space cooling and heating; service equipment, such as dishwasher, refrigerator, oven, stove, and water heater, whether or not those items are built-in equipment; interior fixtures such as electrical and plumbing fixtures; floor coverings except the floor slabs, and inside paint and other inside wall and ceiling finishes. When appropriate and possible, the policies shall waive the insurer's right to:

Subrogation against the Association and against the Unit Owners individually and as a group; and

The pro-rata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; and

Avoid liability for a loss that is caused by an act of the Board of Directors of the Association, or by a member of the Board of Directors of the Association or by one or more Unit Owners.

Notwithstanding any definition to the contrary contained herein, the coverage for all insurance policies shall be as provided by law.

B. Public Liability insurance shall be carried in such amounts and with such coverage as shall be required by the Board of Directors of the Association, including but not limited to hired automobile and non-owned automobile coverages, and with cross liability

endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner.

C. Worker's Compensation insurance shall be carried to meet the requirements of law.

D. Officer and Directors Indemnification insurance shall be carried as provided in the Bylaws.

E. Fidelity Bond. The Association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association at any one time. The phrase "persons who control or disburse funds of the association" includes, but is not limited to, those individuals authorized to sign checks and the president, secretary, and treasurer of the association. The Association shall bear the cost of bonding.

F. Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense. Evidence of the payment of premiums shall be furnished by the Association to any Unit Owner or Mortgagee that encumbers a Unit, upon request.

8.2. Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Association. Such insurance policies shall contain a provision that the proceeds covering property losses shall be paid over to the Association only after the Association has provided proof that the fidelity bonding of the officers and directors of the Association has been increased by the amount of such proceeds. The duty of the Association shall be to receive and hold the insurance proceeds and other funds that are paid to it in trust for the purposes elsewhere stated in this instrument and for the benefit of the Unit Owners and their mortgagees.

A. Unit Owners. The Unit Owner is entitled to an undivided share in all insurance policies, that share being the same as the undivided share in the Common Elements appurtenant to his Unit. Where damage is caused to a particular Unit or Units, and Association insurance is payable therefor, the payment of proceeds for the actual damage does not violate this provision.

B. Mortgagees. In the event the Association has notice of a mortgage on the Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions of proceeds made to the Unit Owner and mortgagee.

8.3. Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the beneficial Owners in the manner hereafter provided in the section entitled "reconstruction or repair after casualty."

8.4. Association as Agent. The association is irrevocably appointed agent for each Unit Owner and for each Owner of a mortgage or other lien upon a Unit 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.

8.5. Benefit of Mortgagee. Certain provisions in this section entitled "insurance" are for the benefit of mortgagees of Condominium Parcels. All of these provisions are covenants for the benefit of any mortgagee of a Unit and may be enforced by that mortgagee.

9. Reconstruction and Repair after Casualty.

9.1. Determination Whether to Reconstruct and Repair. Whether or not Condominium Property damaged by casualty shall be reconstructed and repaired shall be determined in the following manner:

A. Lesser Damage. If Units to which 50% of the Common Elements are appurtenant are found by the Board of Directors of the Association, after receiving the opinion of the mortgagee with greatest number of mortgages in the Condominium, and receiving the opinion of an architect licensed to practice in this State, to be tenable after the casualty, the damaged property shall be reconstructed and repaired.

B. Major damage. If Units to which more than 50% of the Common Elements are appurtenant are found by the Board of Directors of the Association after receiving the opinion of the mortgagee with the greatest number of mortgages in the Condominium and receiving the opinion of an architect licensed to practice in the State, to be not tenable after the casualty, whether the damaged property will be reconstructed and repaired or the Condominium terminated shall be determined in the following manner:

Immediately after the determination of the amount of insurance proceeds, the Association shall give notice to all Unit Owners and all Institutional Mortgagees holding a mortgage lien on any unit of the casualty, the extent of the damage, the estimated cost to rebuild and repair, the amount of insurance proceeds and the estimated amount of assessments required to pay the excess of the cost of reconstruction and repair over the amount of insurance proceeds.

The notice shall call a meeting of Unit Owners to be held within thirty (30) days from the mailing of the notice.

If the reconstruction and repair is approved at the meeting by the Owners of 75% of the Common Elements and a majority of the Institutional Mortgagees holding a mortgage lien on any unit, the damaged property will be reconstructed and repaired; but if not so approved, the Condominium shall be terminated without requirement of agreement as elsewhere provided. Mortgagees holding mortgages on any of the Units may appear at such meeting in person or by a representative and express their views.

The approval of a Unit Owner may be expressed by vote or in writing filed with the Association at or prior to the meeting.

The expense of this determination shall be assessed against all Unit Owners as a common expense.

C. Certificate. The Unit Owners may rely upon a certificate of the Association made by its president and secretary to determine whether or not the damaged property is to be reconstructed and repaired.

9.2. Report of damage. If any part of the Condominium Property shall be damaged and insurance proceeds or other funds are paid to the Association on account of the damage, a report of the damage shall be submitted by the Association to the Unit Owners and mortgagees as shown by the records of the Association. The report shall include the following

information:

Date and cause of damage.

Whether the damaged property will be reconstructed and repaired or the Condominium terminated.

If the damaged property will be reconstructed and repaired, the report shall include the following information:

Schedule of damage for which the Association has responsibility for reconstruction and repair and the estimated costs of reconstruction and repair.

Whether damaged property for which the Association has responsibility for reconstruction and repair includes structural parts of a building.

Schedule of damage for which Unit Owners have the responsibility and repair and the estimated costs of each Owner for reconstruction and repair.

The report of damage shall be substantiated by an attached report of an architect qualified to practice in this state.

9.3. Responsibility for Reconstruction and Repair. The responsibility for reconstruction and repair after casualty shall be the same as for maintenance and repair of the Condominium Property as provided in the section entitled "Maintenance, Alteration and Improvement."

9.4. Plans and Specifications. Any reconstruction and repair must be substantially in accordance with the plans and specifications for the original improvements, portions of which are attached as exhibits; or, if not, then according to plans and specifications approved by the Board of Directors of the Association, and if the damaged property is the entire building, by the Owners of not less than seventy-five percent (75%) of the Common Elements, including the Owners of all Units the plans for which are to be altered.

9.5. Assessments; Determination of Sufficiency of Funds.

A. Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair for which the Association is responsible, or if at any time during that work or upon completion of the work the funds available for the payment of the costs are insufficient, assessments shall be made by the Association against all Unit Owners in sufficient amounts to provide funds for the payment of those costs. The assessments shall be made as for a common expense, except that the cost of construction, reconstruction and repair occasioned by special improvement made at the request of the Owner and not common to other Units shall be assessed to the Owner of the Unit.

B. Determination of sufficiency of funds. If the estimated costs of reconstruction and repair for which the Association is responsible do not exceed Ten Thousand Dollars (\$10,000.00), the sufficiency of funds to pay the costs shall be determined by the Board of Directors of the Association and the sums paid upon the assessments shall be held by the Association. If the estimated costs exceed Ten Thousand Dollars (\$10,000.00), the sufficiency of funds to pay the costs shall be determined by an architect qualified to practice in Florida and employed by the Association to supervise the work, and the sums paid upon the assessments shall be held by the Association.

9.6. Disbursement of Funds. The funds held by the Association after a casualty, which

will consist of proceeds of insurance and the sums collected from assessments against Unit Owners on account of the casualty, shall be disbursed in the following manner and order:

A. Termination of the Condominium. If the Condominium is terminated, either by agreement after lesser damage or by failure of the Unit Owners to approve reconstruction and repair after major damage, the remaining funds shall be deemed to be Condominium Property and shall be owned by the Unit Owners as tenants in common in the undivided shares in which they own the Common Elements prior to the termination. The balance of the funds shall be distributed to the beneficial Owners as deemed appropriate by the Association in the amounts certified by the Association, remittances to Unit Owners and their mortgagees being made payable jointly to them.

B. Reconstruction and Repair of Damage. If the damaged property is reconstructed and repaired, the funds shall be disbursed in the following manner:

By Association - Damages of Ten Thousand Dollars (\$10,000.00) or Less. If the estimated costs of reconstruction and repair that is the responsibility of the Association do not exceed Ten Thousand Dollars (\$10,000.00), the funds shall be disbursed in payment of these costs upon the order of the Association; provided, however, the funds shall be disbursed in the manner hereafter provided for the reconstruction and repair of damage of more than Ten Thousand Dollars (\$10,000.00) if the damaged property includes structural parts of a building, or if requested by a mortgagee that is a beneficiary of an insurance policy the proceeds of which are included in the funds.

By Association - Damage of More than Ten Thousand Dollars (\$10,000.00). If the estimated costs of reconstruction and repair that is the responsibility of the Association exceed Ten Thousand Dollars (\$10,000.00), the funds shall be disbursed in payment of these costs in the manner required by the Board of Directors of the Association; provided, however, that an architect qualified to practice in Florida and employed by the Association to supervise the work shall approve all disbursements as being due and properly payable.

By Unit Owners. If there is a balance of insurance proceeds after payment of costs of reconstruction and repair that is the responsibility of the Association, this balance shall be distributed to Owners of damaged Units who have responsibility for reconstruction and repair of their Units. The distribution shall be in the shares that the estimated cost of reconstruction and repair of this damage in each damaged Unit bears to the total of these costs in all damaged Units; provided, however, that no Unit Owner shall be paid an amount in excess of the estimated costs for his Unit. If there is mortgage upon a Unit, the distribution shall be paid to the Unit Owner and the mortgagee jointly and they may use the proceeds as they may determine.

Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance remaining after payment of the costs for which the funds are collected, the balance shall be distributed to the beneficial Owners of the funds, remittances to Unit Owners and their mortgagees being made payable jointly to them; provided, however, that the part of a distribution to a Unit Owner that is not in excess of assessments paid by that Owner into the funds shall not be made payable to any mortgagee.

C. Reliance upon certificates. The Board of Directors of the Association shall make a determination as to the existence of certain facts upon which the distribution of funds is conditioned and a certificate of the Association executed by its president and secretary, copies of which shall be provided to each Unit and Owner and their mortgagees, stating:

Whether the damaged property will be reconstructed, repaired or the Condominium terminated.

9.7. Benefit of mortgagees. Certain provisions in the section entitled "Reconstruction or repair after casualty" are for the benefit of mortgagees of Condominium Parcels. All of these provisions are covenants for the benefit of any mortgagee of a Unit and may be enforced by the mortgagee.

10. Use restrictions. The use of the Condominium Property shall be in accordance with the following provisions as long as the Condominium exists and the building in useful condition:

10.1. Units. Each of the Units shall be utilized for residential purposes only.

10.2. Common elements. The Common Elements shall be used only for the purpose for which they are intended in the furnishing of services and facilities for the enjoyment of the Units by their occupants.

10.3. Nuisances. No nuisances shall 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 shall 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 Unit Owner shall permit use of a Unit or make any use of the Common Elements that will increase the cost of insurance upon the Condominium Property above that required when the Unit is used for the approved purposes.

10.4. Exterior appearance. No clothes, sheets, blankets, laundry or other articles shall be hung out or exposed from any patio or balcony or the Common Elements. Nothing shall be hung or displayed on the outside walls of the building and no awning, canopy, shade, window guard, ventilator, fan, air conditioning device, radio or television antenna or satellite receiving device may be affixed to or placed upon the exterior walls or roof or any part thereof without the prior consent of the Association, with the exception of hurricane shutters meeting the specifications adopted by the Board of Directors pursuant to Florida Statute 718.113. No materials of any nature or description, including but not limited to window film for sun and heat control may be affixed, adhered or otherwise caused to remain on the interior or exterior of any window or door. All draperies, curtains and blinds or other window treatments of each must be lined with a white material so that the windows and doors, when viewed from the exterior of the building will have a uniform and attractive appearance, and all exterior wall surfaces of the Condominium will be maintained in the original color scheme. No sign may be placed in the window of any Unit. No For Sale sign may be placed anywhere on the property, except by Developer selling Units in the ordinary course of business.

As provided by Florida Statute 718.113(4), any Unit Owner may display one portable, removable United States flag in a respectful way.

10.5. Lawful use. No immoral, improper, offensive, or unlawful use shall 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 shall be observed. The responsibility of meeting the requirements of governmental bodies for maintenance, modification or repair of the Condominium Property shall be the same as the responsibility for the maintenance and repair of the property concerned.

10.6. Leasing. Units may not be leased for less than one (1) month. All leases must be approved by the Association. Approval of leases is required, but the only criteria applicable

are those items stated in Section 11.2 of the Declaration.

10.7. Rules and Regulations. Reasonable regulations concerning the appearance and use of Condominium Property may be made and amended from time to time by the Association in a manner provided by its Articles of Incorporation and Bylaws. Copies of those regulations and amendments shall be furnished by the Association to all Unit Owners and residents of the Condominium upon request. All lessees and purchasers are deemed to be on notice of the contents of, and obliged to comply with, such Rules and Regulations even if they have not received a copy.

10.8. Entry Into Units. The Association has the irrevocable right of access to each Unit during reasonable hours, when necessary for the maintenance, repair, or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units.

10.9. Pets - Limitation or prohibition. The Condominium Association, acting through its Board of Directors, may impose regulations, restrictions or limitations upon the keeping of pets and may appoint a committee for the purpose of enforcing such regulations in accordance with rules of procedure as contained in the Bylaws. Up to two (2) domestic pets (excluding dogs), shall be permitted in a Unit provided the total weight of each pet does not exceed thirty (30) pounds at maturity. Domestic pets are limited to indoor cats, small birds, and small fish only. No dogs or reptiles are permitted in the condominium. This provision may not be amended except on the affirmative vote of seventy-five percent (75%) of the Unit Owners in the manner for amendments as elsewhere provided in this instrument.

10.10. Parking Lot Restrictions. In addition to the fact that one parking space is numbered and assigned to a Unit, there are restrictions as to the type of vehicle that can be parked on the Condominium Property for more than two (2) hours. The types of vehicles that may not be parked for more than two hours on Condominium Property include, but are not limited to: boats, trailers, step vans, jet skis, vehicles with business signs affixed, motor homes, trucks other than standard pick-up trucks, any vehicle that would qualify as a commercial vehicle. The Board of Directors may impose additional limitations or modify the definitions of the above described vehicles.

10.11. Proviso. Provided, however, that until Developer has closed the sales of all of the Units and of the Condominium, neither the Unit Owners nor the Association nor the use of the Condominium Property shall interfere with the Developer's sale of the Units. Developer may make such use of the unsold Units and Common Elements, without charge, as may facilitate sales of Units, including but not limited to maintenance of a sales office, the showing of the property and the display of signs.

11. Maintenance of Community Interests. In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the Units, the transfer of Units by any Owner other than the Developer shall be subject to the following provisions as long as the Condominium exists and the building in useful condition exist upon the land, which provisions each Unit Owner covenants to observe:

11.1. Transfers subject to approval.

A. Sale. No Unit Owner may dispose of a Unit or any interest in a Unit by sale without approval of the Association except to the Owner of another Unit.

B. Lease. All leases are subject to approval of the Association, and shall not

be for less than one (1) month.

C. Gift. If any Unit Owner shall acquire his title by gift, the continuance of ownership of his Unit shall be subject to the approval of the Association. However, this restriction shall not apply to gifts by a Unit Owner to a member of his immediate family (viz. spouse, children or parents).

D. Other transfers. If any Unit Owner shall acquire title by any manner not considered in the foregoing subsections, other than by devise or inheritance upon death of an Owner, which transfer is not hereby restricted, the continuance of ownership of the Unit shall be subject to the approval of the Association.

11.2. Approval by Association. The approval of the Association that is required for the transfer of ownership of Units shall be obtained in the following manner:

A. Notice to Association.

Sale. A Unit Owner intending to make a bona fide sale of a Unit or any interest in it shall give to the Association notice of that intention, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as the Association may reasonably require. The notice at the Unit Owner's option may include a demand by the Unit Owner that the Association furnish a purchaser of the Unit if the proposed purchaser is not approved, and if that demand is made, the notice shall be accompanied by an executed copy of the proposed contract to sell.

Lease. A Unit Owner intending to make a bona fide lease of a Unit shall give to the Association notice of that intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as the Association may reasonably require, and an executed copy of the proposed lease. The Board of Directors has the right to approve or disapprove a Tenant. All leases must meet the minimum rental period. The Board of Directors shall have the right to require that a security deposit in an amount not to exceed the equivalent of one (1) month's rent be deposited into an escrow account maintained by the Association, each time a Unit is leased for occupancy by a non-owner. The security deposit shall protect against damages to the Common Elements or association property. Within 15 days after a tenant vacates the premises, the Association will refund the full security deposit or give written notice to the tenant and the Unit-owner of any claim made against the security. Disputes under this section shall be handled in the same fashion as disputes concerning security deposits under 83.49, Florida Statutes.

Pursuant to 718.116(4), Florida Statutes, delinquency in the payment of assessments at the time of application shall also constitute a valid reason for disapproval.

All leases shall be accompanied by the following statement signed by the prospective lessee: "The Restrictive Covenants of OCEAN GARDEN CONDOMINIUM, Declaration of Condominium and all applicable Rules and Regulations in effect have been discussed with lessee who by signing below acknowledges receiving a copy of said Rules and agrees to honor these regulations for the duration of the lease."

Gifts and other transfers. A Unit Owner intending to make a gift of a Unit or any interest in a Unit, and a Unit Owner who has obtained his title by gift, or by any other manner not previously approved by the Association, shall give to the Association notice of the proposed gift or of the acquiring of title, together with such information concerning the transferee as the Association may reasonable require, and a certified copy of the instrument evidencing a transferee's title. A life estate deed of any type, or a trust or other Instrument

that provides a right of the beneficiary to reside on or enjoy a Condominium Parcel while the Owner is alive, shall be deemed to be a gift. As gifts to certain family members are permitted by 11.1C above are not restricted, approval is not applicable as to such transfers, but notice still must be provided.

Failure to give notice. If the above required notice to the Association is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a Unit, the Association, at its election and without notice, may approve or disapprove the transaction or ownership. If the Association disapproves the transaction or ownership, the Association shall proceed as if it has received the required notice on the date of that disapproval.

Costs. A Unit Owner who is required to give notice to the Association of a transfer of ownership shall pay a reasonable fee to the Association in an amount determined by the Association, but which shall not exceed the statutorily permitted amount in effect at the time of the application, to cover the costs incident to the determination by the Association. The fee shall be paid with the giving of the notice, and the notice shall not be complete unless the fee is paid; and if the notice is not given, the fee shall be charged to the transferee .

B. Certificate of approval.

Sale. If the proposed transaction is a sale, then within fifteen (15) days after receipt of the notice and information the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the president and secretary of the Association in recordable form. The certificate shall be recorded in the Public Records of Volusia County, Florida at the expense of the purchaser.

Lease. If the proposed transaction is a lease, if the Tenant is approved and all requirements of Section 10.6 and 11.2 have been complied with, then within fifteen (15) days after receipt of the notice and information the Association must approve the lease and give notice as to whether or not a security deposit is required.

Gifts and other transfers. If the notice is of an intended gift or the Unit Owner giving notice has acquired his title by gift, or in any other manner not previously approved by the Association, then within fifteen (15) days after receipt of the notice and information the Association must either approve or disapprove the donee or the continuance of the transferee's ownership of his Unit. If approved, the approval shall be stated in a certificate executed by the president and secretary of the Association in recordable form. The certificate shall be recorded in the Public Records of Volusia County, Florida at the expense of the Unit Owner. If the recipient is a family member as described above, an approval document shall be provided for recording.

11.3. Disapproval by the Association. If the Association shall disapprove a transfer of ownership of a Unit, the matter shall be treated in the following manner:

A. Sale. If the proposed transaction is a sale and if the notice of sale given by the Unit Owner shall so demand, then within fifteen (15) days after receipt of the notice and information the Association shall deliver or mail by certified mail to the Unit Owner an agreement signed by a purchaser approved by the Association and obligating the purchaser to buy the Unit upon the terms hereafter stated. The seller shall be obligated to sell the Unit to the purchaser upon the following terms:

At the option of the purchaser to be stated in the agreement, the price to

be paid shall be that stated in the disapproved contract for sale or shall be the fair market value determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit; and a judgment of specific performance of the sale upon the decision rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

The purchase price shall be paid in cash, or upon terms approved by the seller.

The sale shall 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 it is by arbitration, whichever is the later.

A certificate of the Association executed by its president and secretary and approving the purchaser shall be recorded in the Public Records of Volusia County, Florida, at the expense of the purchaser.

If the Association shall fail to provide a purchaser upon the demand of the Unit Owner in the manner provided, or if a purchaser furnished by the Association shall default in the agreement to purchase, then notwithstanding the disapproval, the proposed transaction as contained in the Unit Owner's original notice of intent to sell shall be deemed to have been approved and the Association shall furnish a certificate of approval as elsewhere provided. The certificate shall be recorded in the Public Records of Volusia County, Florida, at the expense of the purchaser.

B. Lease. If the proposed transaction is a lease, the Unit Owner shall be advised in writing of the disapproval and the lease shall not be made, unless and until compliance with the applicable sections of the documents has been accomplished.

C. Gifts and other transfers. If the notice is of a proposed gift or an attempted gift already made, other than to a family member as provided above, the Unit Owner shall be advised in writing of the disapproval and the gift shall not be made. Any attempted gift to a party who is not approved by the Association shall be void. If the Unit Owner giving notice has acquired his title by gift, or in any other manner, then within thirty (30) days after receipt from the Unit Owner of the notice and information required to be furnished, the Association shall deliver or mail by certified mail to the Unit Owner an agreement signed by a purchaser approved by the Association and obligating the purchaser to buy the Unit upon the terms hereafter stated. The Unit Owner shall be obligated to sell the Unit to the purchaser upon the following terms:

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

The purchase price shall be paid in cash or upon terms approved by the Unit Owner.

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

A certificate of the Association executed by its president and secretary and approving the purchaser shall be recorded in the Public Records of Volusia County, Florida, at the expense of the purchaser.

If the Association shall fail to provide a purchaser in the manner provided, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval the ownership shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided. The certificate shall be recorded in the Public Records of Volusia County, Florida, at the expense of the Unit Owner.

11.4. Exceptions. the foregoing provisions of the section entitled "Maintenance of Community Interests" shall not apply to:

A transfer to or purchase by an Institutional Lender, or its designee, that acquires its title as the result of owning a mortgage upon the Unit concerned, whether the title is acquired by deed from the mortgagor, his successor or assigns, or through foreclosure proceedings, (but they shall apply to any other lender);

A transfer, sale or lease by an Institutional Lender that so acquires its title;

A transfer to a purchaser who acquires the title to a Unit at a duly advertised public sale with open bidding that is provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale or tax sale;

A mortgage or transfer to, or a mortgage, purchase or other acquisition by, Developer; or

Title acquired by devise or inheritance upon death of an Owner.

11.5. Unauthorized transactions. Any sale, transfer, lease or assignment of lease that is not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

12. Compliance and default. Each Unit Owner and the Association shall be governed by and shall comply with the terms of the Declaration of Condominium, Articles of Incorporation Bylaws and Rules and Regulations of the Association duly adopted pursuant to the terms of the applicable documents, and as to all such documents and regulations as they may be amended from time to time. The Board of Directors of the Association is hereby granted the authority to appoint a committee or committees of Unit Owners for the purpose of implementing and enforcing the terms of these documents and regulations under the rules of procedure contained in the Bylaws. The Association and Unit Owners shall be entitled to the following relief in addition to the remedies provided by The Condominium Act:

12.1. Negligence. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement made necessary by the negligence of the Owner, the Owner's family member, guests, employees, agents, invitees or lessees, but only to the extent that expense is not met by the proceeds of insurance carried by the Association.

12.2. Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Unit Owner or the Association to comply with the requirements of the Condominium Act,

this Declaration, the Bylaws, or the Regulations, and those items as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorneys' fees.

12.3. No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Bylaws or the Regulations shall not constitute a waiver of the right to do so thereafter.

12.4. Fines. Pursuant to 718.303(3), Florida Statutes, the Association may levy reasonable fines against a Unit for the failure of the Unit Owner, or its guest, occupant, licensee, or invitee, to comply with any provision of the Declaration of Condominium, the Bylaws, or Rules and Regulations. No such fine may exceed One Hundred Dollars (\$100.00) per violation or the highest amount permitted by statute from time to time. However, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, provided that no such fine shall in the aggregate exceed One Thousand Dollars (\$1,000.00). No fine may be levied except after giving reasonable notice and opportunity for a hearing to the Unit Owner and, if applicable, its licensee or invitee. The hearing must be held before a committee of other Unit Owners. If the committee does not agree with the fine, the fine may not be levied. The provisions hereof do not apply to unoccupied Units, and are subject to the administrative rules promulgated from time to time by the Department of Business and Professional Regulation or its appropriate successor.

13. Amendments. Except as elsewhere provided, this Declaration of Condominium may be amended in the following manner:

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

13.2. Adoption. A resolution for the adoption of a proposed amendment may be at any regular or special meeting of the Association called in accordance with the Bylaws at which a quorum is present. Such amendments may be proposed by either the Board of Directors of the Association or by the members at a meeting of the Association. Members not present in person or by proxy at the meeting considering the amendment may express their approval in writing signed by the individual designated to cast the vote for the Unit as provided in Section 7.2 of this Declaration, providing that approval is delivered to the secretary at or prior to the meeting.

Except as elsewhere provided, the approvals must be either by:

Not less than a majority of the entire membership of the Board of Directors and by not less than a majority of the total number of votes to which the Unit Owners present and voting shall be entitled; or

Not less than seventy-five percent (75%) of the votes of the entire membership of the Association; or

Not less than fifty percent (50%) of the entire membership of the Board of Directors in the case of amendments that are only for one or more of the following purposes:

To correct misstatements of fact, typographical or clerical errors in the Declaration and its exhibits.

Not less than all the record owners of all other units in the Condominium to change the boundaries between Units in the manner elsewhere stated, provided the amendment is signed and acknowledged by the Developer, Unit Owner or Owners and

mortgagees of the affected Units.

Until such time as the Unit Owners other than the Developer are entitled to elect a majority of the directors, Developer reserves the right to amend, modify, alter or annul any of the covenants, restrictions or conditions of this Declaration; however the Developer may not amend, modify, alter or annul any language contained in this Declaration unless permitted by Chapter 718 of the Florida Statutes.

No amendment may be made without consent of mortgagees if, and only if, such proposed amendment would materially affect the rights or interests of mortgagees, or as otherwise required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, which consent may not be unreasonably withheld.

13.3. Proviso. Provided, however, that no amendment shall discriminate against any Unit Owner nor against any Unit or class or group of Units, unless the Unit Owners so affected shall consent; and no amendment shall change the configuration or size of any Condominium Unit in any material fashion, materially alter or modify the appurtenances to the Unit, or change the proportion or percentage by which the Owner of the Unit shares the common expenses and owns the common surplus unless the record Owner of the Unit and, and Mortgagees, if required pursuant to 13.2 above, and upon the terms set forth therein, join in the execution of the amendment and unless the record Owners of two-thirds of all of the other Units approve the amendment. The consent of Mortgagees, if required, shall not be unreasonably withheld. Neither shall an amendment make any change in Sections 8, 9, 11 and 13 entitled "Insurance," "Reconstruction and Repair after Casualty", "Maintenance of Community Interests" and "Amendments" unless the record Owners of all mortgages upon the Condominium without consent of Mortgagees, if required pursuant to 13.2 above, and upon the terms set forth therein.

13.4. Execution and Recording. An amendment adopted in any manner shall be evidenced by attaching a copy of the amendment to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the officers of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Volusia County, Florida.

14. Termination. The Condominium may be terminated in the following ways in addition to the manner provided by The Condominium Act:

14.1. Destruction. If it is determined in the manner elsewhere provided that the building shall not be reconstructed because of major damage, the condominium plan of ownership thereby will be terminated without agreement.

14.2. Agreement. The Condominium may be terminated by approval in writing of all record Owners of Units and all record Owners of mortgages on Units.

14.3. Certificate. The termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its president and secretary certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the Public Records of Volusia County, Florida.

14.4. Shares of Owners After Termination. After termination of the Condominium, Unit Owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees and lienor shall have mortgages and liens upon the respective undivided shares of the Unit Owners. The undivided shares of

the Unit Owners shall be the same as the undivided shares of the Common Elements appurtenant to the Owners' Units prior to the termination.

14.5. Amendment. This section concerning termination cannot be amended without consent of four-fifths (4/5) of the total voting interests.

15. Turnover of Association Control to Unit Owners other than Developer. At such time as the Unit Owners other than Developer elect a majority of the Directors of the Association as provided in Article IV, Section 2, E of the Bylaws of the Association, the Developer shall deliver to the Association all contributions to the Condominium Association's working capital as provided in the Purchase Agreement and paid to the Association under the control of the Developer at the time of closing less prepaid items which shall be pro-rated as of the date of turnover. It shall be the responsibility of the Developer to see that the contribution to working capital paid by each Unit Owner at the closing of the sale by Developer is paid over to the Association. The Developer shall also deliver all other items required to be delivered by the Bylaws or Florida Statute.

16. Cable television. The Developer, during construction or after completion, as evidenced by issuance of a certificate of occupancy by the appropriate authority, or the Association, by action of its Board of Directors, is authorized to enter into agreements to provide cable television service or other television reception service, to the Owners or occupants of Units of the Condominium, upon such terms and conditions as the Developer or the Board of Directors shall approve, including but not limited to the authority of the Association to enter into a service contract for such service to all Units of the Condominium in which case the cost shall be treated as a common expense. This authority shall be liberally construed to allow the placement of cables, equipment and all necessary adjunctive mechanical, electro-mechanical, electrical and/or electronic devices upon the Condominium Property as the Developer or Board of Directors shall approve to effectuate the intentions of this paragraph. In the event service to all Units is not provided, Unit Owners shall have the right to have cable television service extended and provided within their Units without action of the Board of Directors and such services may be brought to the Unit Owners requiring or desiring such service over the Common Elements of the Condominium and as other utility services may be extended to the Condominium Units, providing that such installation shall not be unsightly and that such installation shall not interfere with the reasonable, lawful and peaceful use of the Common Elements and the limited Common Elements by the persons entitled to use them. Nothing in this paragraph shall be construed to impose upon the Developer or any other person, either real or corporate, the obligation to provide or install television reception facilities in this Condominium, nor to prohibit such installation. Unit Owners are prohibited from installing any type of antenna or satellite reception device on the roof or any other part of the exterior of the Condominium. Notwithstanding this provision, pursuant to Florida Statute 718.1232, no resident of any Unit, whether tenant or Owner, shall be denied access to any available franchised or licensed cable television service, nor shall such resident or cable television service be required to pay anything of value in order to obtain or provide such service except those charges normally paid for like services by residents of, or providers of such services to, single-family homes within the same franchised or licensed area and except for installation charges as such charges may be agreed to between such resident and the provider of such services.

17. Miscellaneous.

A. 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 of the Association, the Bylaws and Regulations of the Association, shall not affect the validity of the remaining portions.

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

C. Notices. The Association shall give the Institutional Mortgagee or the Institutional Mortgage holder, insurer or guarantor of any mortgage on any unit in any building the right to timely notice of:

1. Any condemnation or casualty loss that affects either a material portion of the project or the unit securing its mortgage;

2. Any 60 day delinquency in the payment of assessments or charges owned by the owner of any unit on which it holds the mortgage;

3. A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

4. Any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

To be entitled to receive this information, the Institutional Mortgagee or Institutional Mortgage holder, insurer, or guarantor must send written request to the Association, stating both its name and address and the unit number or address of the unit which it has (or insures or guarantees) the mortgage.

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

Signed, sealed and delivered
in the presence of:

FISH LIPS, INC., a Florida corporation

Holly A. Modrono
Holly A. Modrono

By: Mary Stephens, pres.
MARY STEPHENS, President

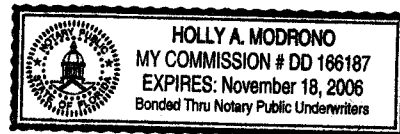
Tanya Hager
Tanya Hager

STATE OF FLORIDA
COUNTY OF VOLUSIA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared MARY STEPHENS, well known to me to be the President of FISH LIPS, INC., a Florida corporation, named as Developer in the foregoing Declaration of Condominium, and that she acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in her by said corporation and that the seal affixed thereto is the true and corporate seal of said corporation.

WITNESS my hand and official seal in the State and County last aforesaid this 9 day of August, 2006.

Holly A. Modrono
Notary Public
State of Florida at Large.
Commission No.: DD 166187
My commission expires: 11/18/06



CONSENT OF MORTGAGEE

CYPRESSCOQUINA BANK, owner and holder of a mortgage lien upon the property described in Mortgage and Security Agreement recorded in Official Records Book 5829, Page 3427, Public Records of Volusia County, Florida, hereby consents to the submission of said real property and improvements to condominium ownership in accordance with the terms and provisions of the Declaration of Condominium for OCEAN GARDEN CONDOMINIUM.

Signed, sealed and delivered
in the presence of:

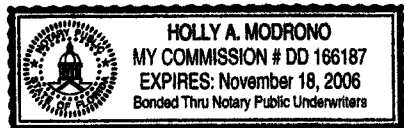
Patricia L. Bennett
Witness
Patricia L. Bennett
Printed Name

CYPRESSCOQUINA BANK
[Signature]
By: Fred Jones
Its: Vice President

Holly A. Modroño
Witness
Holly A. Modroño
Printed Name

STATE OF FLORIDA
COUNTY OF VOLUSIA

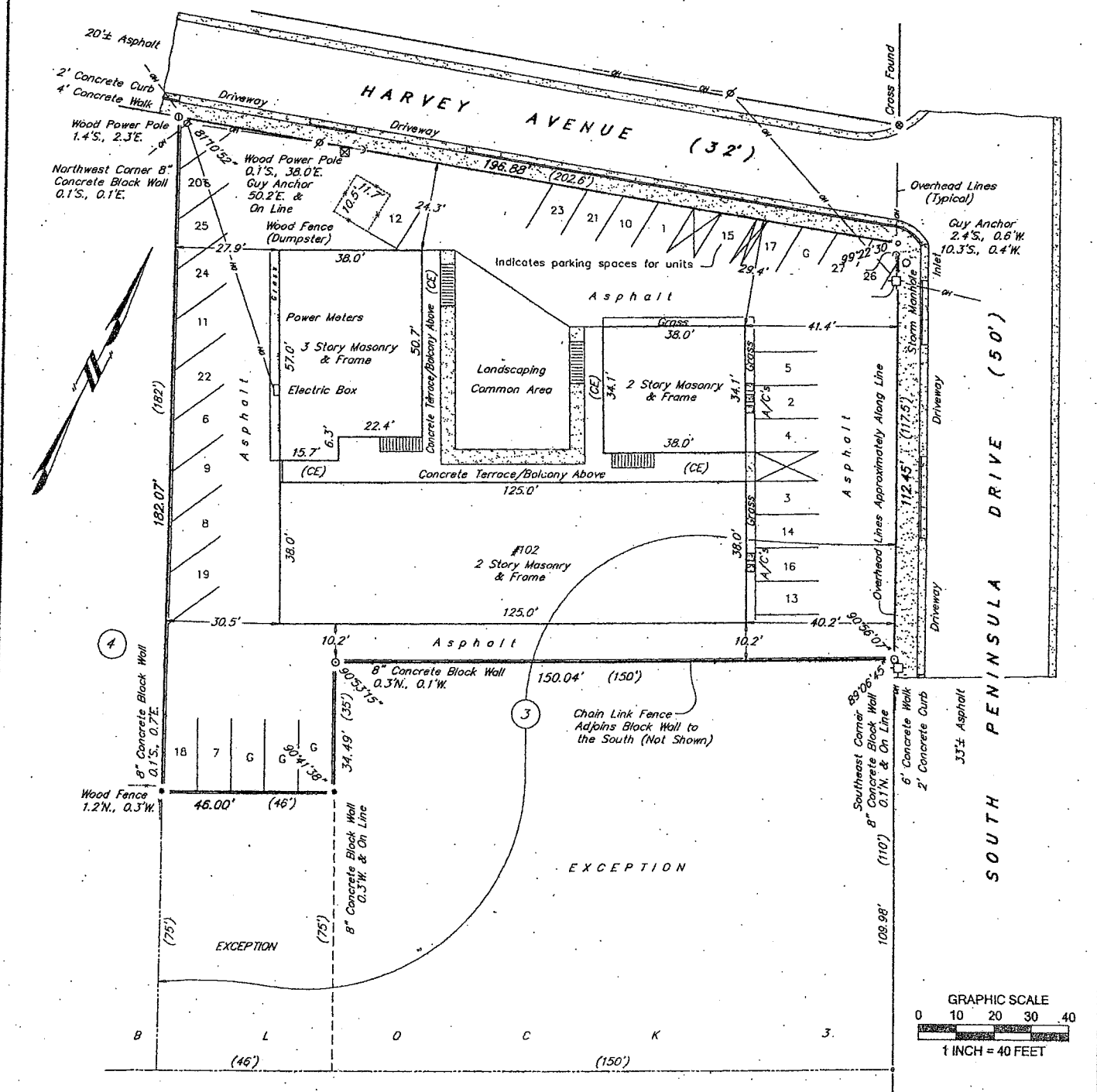
The foregoing instrument was acknowledged before me this 8th day of August, 2006, by FRED JONES an authorized officer for and on behalf of CYPRESSCOQUINA BANK, who is personally known to me; or, who has produced a driver's license as identification and who did not take an oath.



Holly A. Modroño
Notary Public
Holly A. Modroño
Printed Name

42

OCEAN GARDEN CONDOMINIUM



LEGAL DESCRIPTION:
 LOT 3, BLOCK 3, ASSESSOR'S DAYTONA BEACH, EXCEPT THE SOUTHERLY 110 FEET OF THE EASTERLY 150 FEET AND ALSO EXCEPT THE WESTERLY 46 FEET OF SOUTHERLY 75 FEET THEREOF, AS PER MAP RECORDED IN MAP BOOK 3, PAGE 132, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

LEGEND:

- - 1 1/4" Iron Pipe and Cap #4002 recovered ○ - 5/8" Iron Rod and Cap #6312 found ◊ - 5/8" Iron Rod and Cap #3865 found ◉ - Cut found
- ◊ - 1 1/4" Iron Pipe and Cap #6883 set at corner (Cut found 0.29"W., 0.18"N.) ⊕ - Concrete Pole ⚡ - Wood Utility Pole ☒ - Water Meter

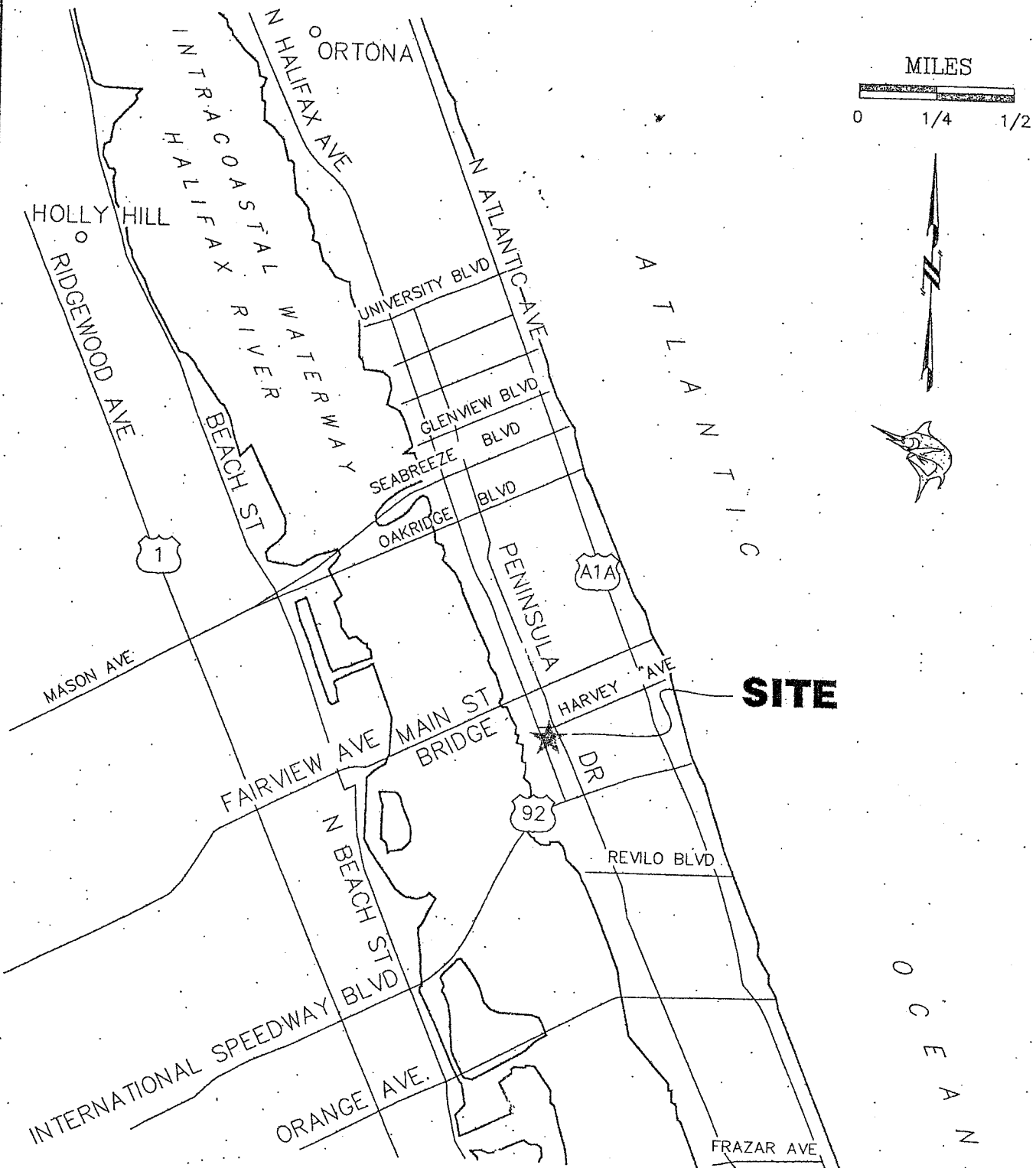
(CE) - Common Element G = Guest

No overhead or underground features shown except as noted. Record dimensions are shown in parenthesis, field measurements are not. Wood fence and/or mutual railings atop concrete block wall not shown. There may be additional restrictions and/or other matters not shown hereon that may be found in the public records of this county, Florida.

J.J. MATEJKA & ASSOCIATES, INC.
 PROFESSIONAL SURVEYORS & MAPPERS
 LICENSED BUSINESS #6883
 408 HARVEY AVENUE
 DAYTONA BEACH, FL 32118
 PHONE/FAX (386) 252-7371

SURVEY AND PLOT PLAN

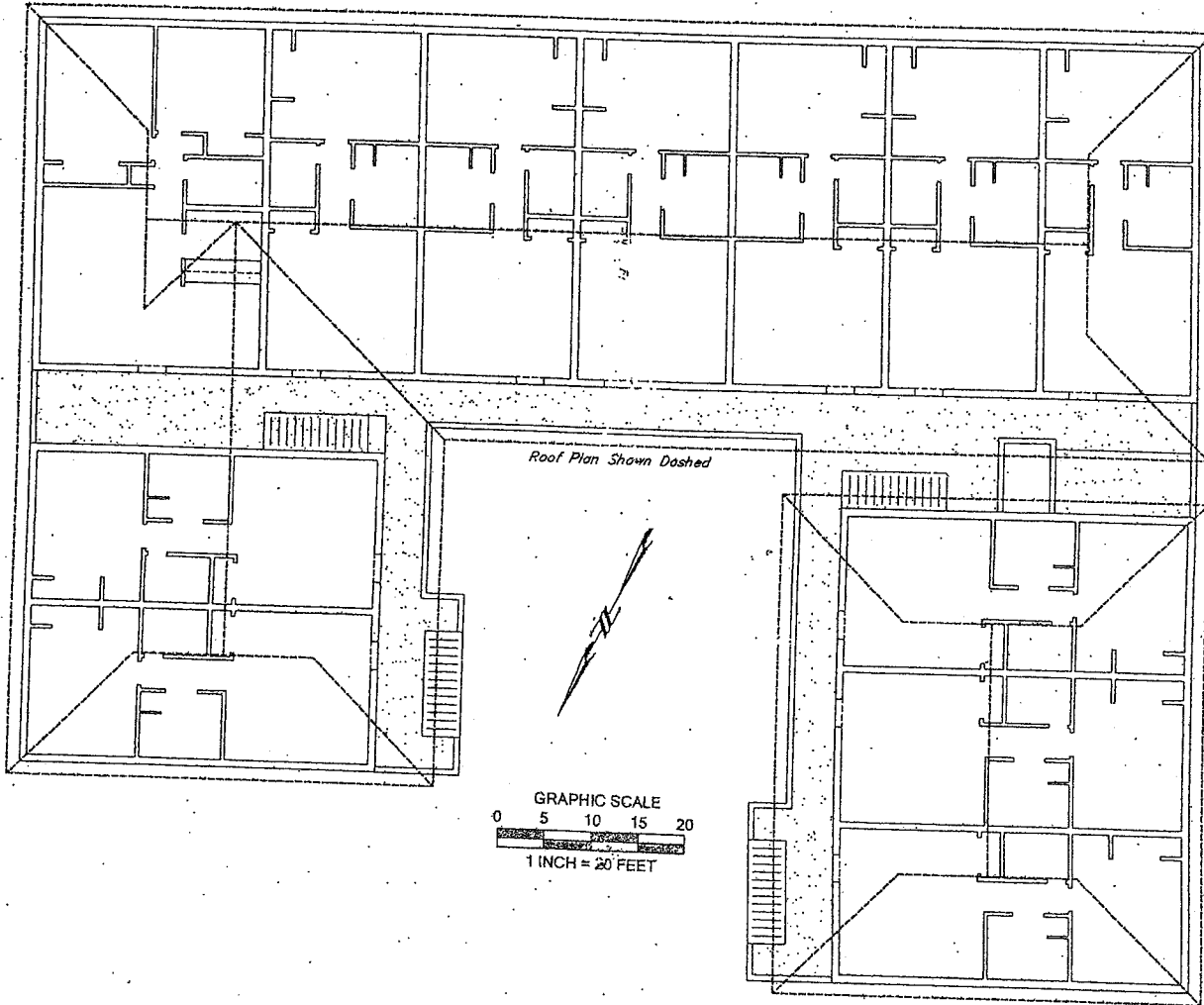
OCEAN GARDEN CONDOMINIUM



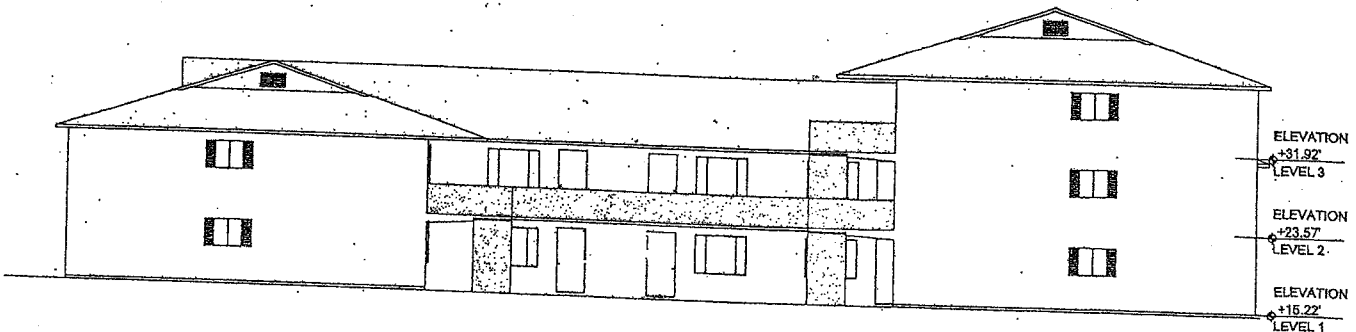
J.J. MATEJKA & ASSOCIATES, INC.
PROFESSIONAL SURVEYORS & MAPPERS
LICENSED BUSINESS #6883
408 HARVEY AVENUE
DAYTONA BEACH, FL 32118
PHONE/FAX (386) 252-7371

VICINITY MAP

OCEAN GARDEN CONDOMINIUM



ROOF PLAN



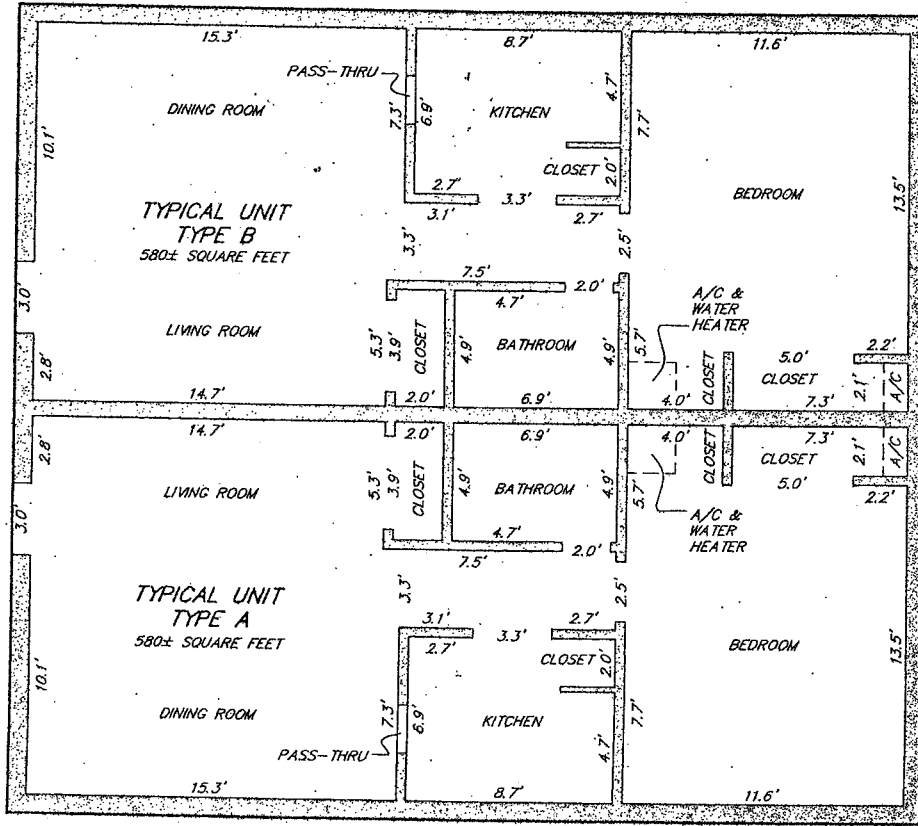
NORTH ELEVATION

J.J. MATEJKA & ASSOCIATES, INC.
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408 HARVEY AVENUE
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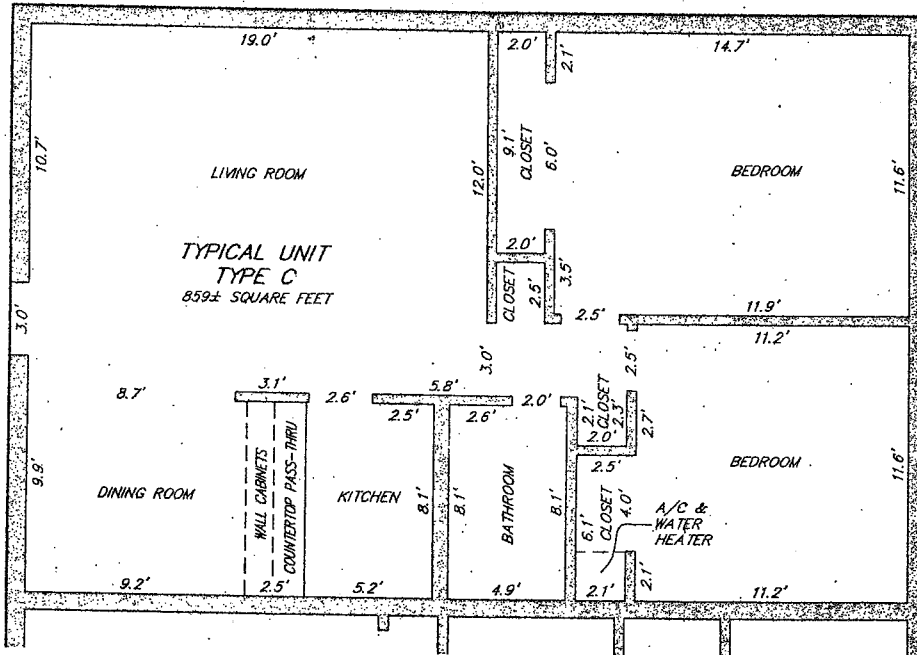
OCEAN GARDEN CONDOMINIUM

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BALCONY/TERRACE
 (COMMON ELEMENT)



BALCONY/TERRACE
 (COMMON ELEMENT)



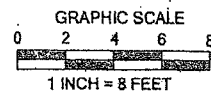
NOTES:

DIMENSIONING SHOWN HEREON IS APPROXIMATE AND MAY VARY
 EACH CONDOMINIUM UNIT CONSISTS OF THE VOLUME BOUNDED BY:
 A.) UPPER BOUNDARIES.
 THE HORIZONTAL PLANE OF THE UNFINISHED LOWER SURFACE OF THE STRUCTURAL CEILING OF THE UNIT.
 B.) LOWER BOUNDARIES.
 THE HORIZONTAL PLANE OF THE UNFINISHED UPPER SURFACE OF THE CONCRETE FLOOR OF THE UNIT.

NOTES:

C.) PERIMETRICAL BOUNDARIES.
 THE PERIMETRICAL BOUNDARIES OF THE UNIT SHALL BE THE VERTICAL PLANES OF THE UNFINISHED INTERIOR SURFACES OF THE WALLS BOUNDING THE UNIT EXTENDED TO THEIR PLANAR INTERSECTIONS WITH EACH OTHER AND WITH THE UPPER AND LOWER BOUNDARIES.

BALCONIES AND TERRACES ARE USED FOR INGRESS AND EGRESS TO OTHER UNITS AND ARE COMMON ELEMENTS, (CE).



J.J. MATEJKA & ASSOCIATES, INC.
 PROFESSIONAL SURVEYORS & MAPPERS
 LICENSED BUSINESS #6883
 408 HARVEY AVENUE
 DAYTONA BEACH, FL 32118
 PHONE/FAX (386) 252-7371

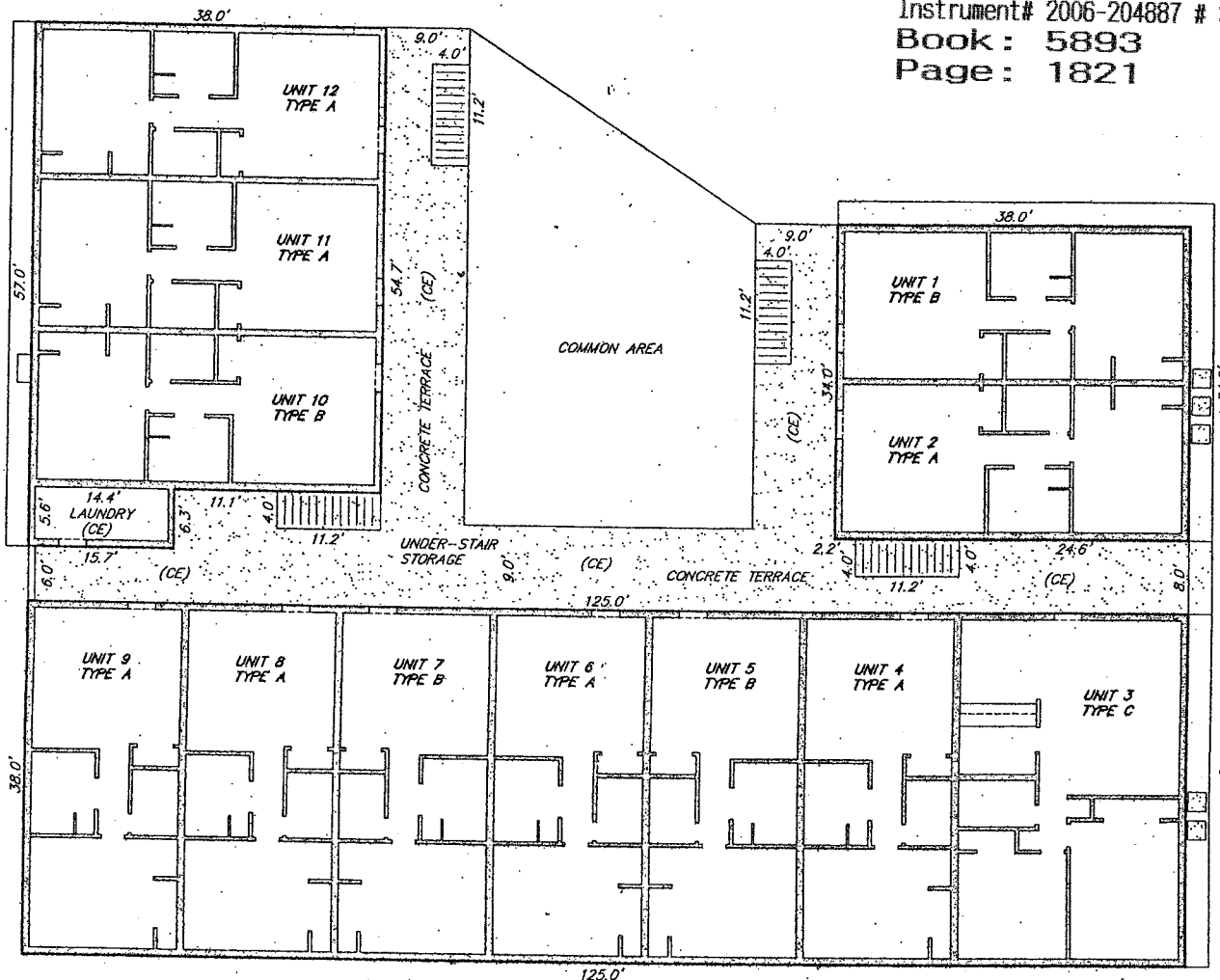
FLOOR PLAN TYPICAL UNITS A B C

OCEAN GARDEN CONDOMINIUM

Instrument# 2006-204887 # 32

Book: 5893

Page: 1821



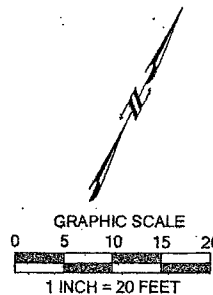
NOTES:

DIMENSIONING SHOWN HEREON IS APPROXIMATE AND MAY VARY

EACH CONDOMINIUM UNIT CONSISTS OF THE VOLUME BOUNDED BY:

- A.) UPPER BOUNDARIES.
THE HORIZONTAL PLANE OF THE UNFINISHED LOWER SURFACE OF THE STRUCTURAL CEILING OF THE UNIT.
- B.) LOWER BOUNDARIES.
THE HORIZONTAL PLANE OF THE UNFINISHED UPPER SURFACE OF THE CONCRETE FLOOR OF THE UNIT.
- C.) PERIMETRICAL BOUNDARIES.
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BALCONIES AND TERRACES ARE USED FOR INGRESS AND EGRESS TO OTHER UNITS AND ARE COMMON ELEMENTS, (CE).



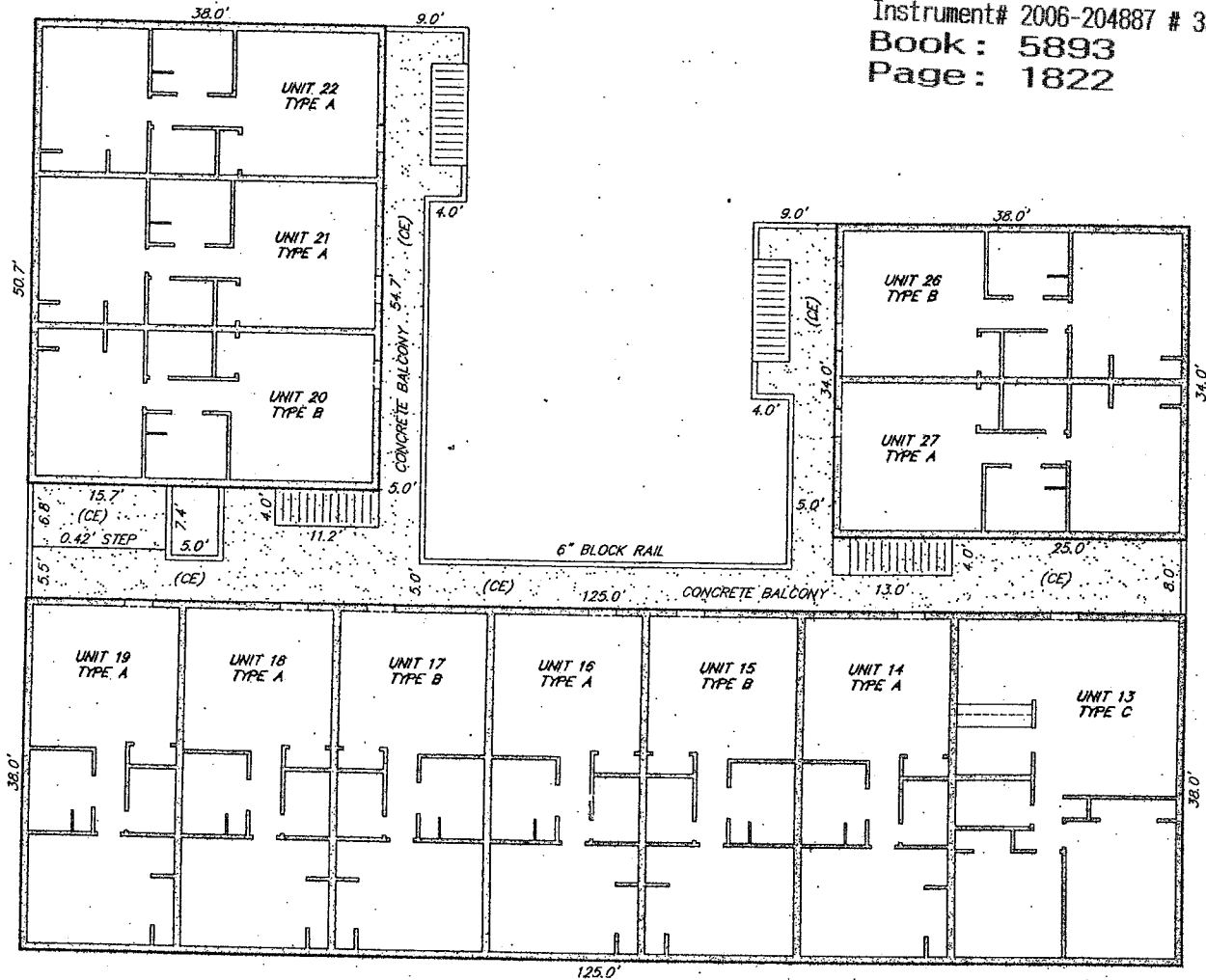
J.J. MATEJKA & ASSOCIATES, INC.

PROFESSIONAL SURVEYORS & MAPPERS
 LICENSED BUSINESS #6883
 408 HARVEY AVENUE
 DAYTONA BEACH, FL 32118
 PHONE/FAX (386) 252-7371

LEVEL ONE UNIT PLAN

OCEAN GARDEN CONDOMINIUM

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NOTES:

DIMENSIONING SHOWN HEREON IS APPROXIMATE AND MAY VARY

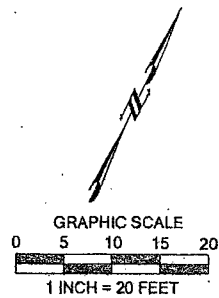
EACH CONDOMINIUM UNIT CONSISTS OF THE VOLUME BOUNDED BY:

A.) UPPER BOUNDARIES.
 THE HORIZONTAL PLANE OF THE UNFINISHED LOWER SURFACE OF THE STRUCTURAL CEILING OF THE UNIT.

B.) LOWER BOUNDARIES.
 THE HORIZONTAL PLANE OF THE UNFINISHED UPPER SURFACE OF THE CONCRETE FLOOR OF THE UNIT.

C.) PERIMETRICAL BOUNDARIES.
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BALCONIES AND TERRACES ARE USED FOR INGRESS AND EGRESS TO OTHER UNITS AND ARE COMMON ELEMENTS, (CE).



J.J. MATEJKA & ASSOCIATES, INC.
 PROFESSIONAL SURVEYORS & MAPPERS
 LICENSED BUSINESS #6883
 408 HARVEY AVENUE
 DAYTONA BEACH, FL 32118
 PHONE/FAX (386) 252-7371

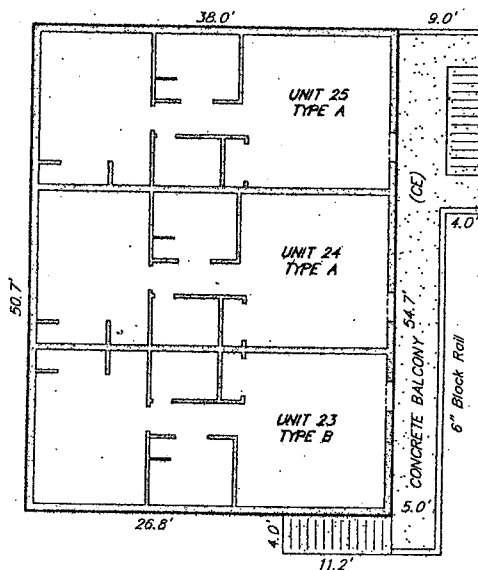
LEVEL TWO UNIT PLAN

OCEAN GARDEN CONDOMINIUM

Instrument# 2006-204887 # 34

Book: 5893

Page: 1823



NOTES:

DIMENSIONING SHOWN HEREON IS APPROXIMATE AND MAY VARY

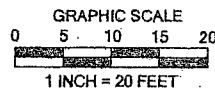
EACH CONDOMINIUM UNIT CONSISTS OF THE VOLUME BOUNDED BY:

A.) UPPER BOUNDARIES.
THE HORIZONTAL PLANE OF THE UNFINISHED LOWER SURFACE OF THE STRUCTURAL CEILING OF THE UNIT.

B.) LOWER BOUNDARIES.
THE HORIZONTAL PLANE OF THE UNFINISHED UPPER SURFACE OF THE CONCRETE FLOOR OF THE UNIT.

C.) PERIMETRICAL BOUNDARIES.
THE PERIMETRICAL BOUNDARIES OF THE UNIT SHALL BE THE VERTICAL PLANES OF THE UNFINISHED INTERIOR SURFACES OF THE WALLS BOUNDING THE UNIT EXTENDED TO THEIR PLANAR INTERSECTIONS WITH EACH OTHER AND WITH THE UPPER AND LOWER BOUNDARIES.

BALCONIES AND TERRACES ARE USED FOR INGRESS AND EGRESS TO OTHER UNITS AND ARE COMMON ELEMENTS, (CE).



J.J. MATEJKA & ASSOCIATES, INC.

PROFESSIONAL SURVEYORS & MAPPERS
LICENSED BUSINESS #68883
408 HARVEY AVENUE
DAYTONA BEACH, FL 32118
PHONE/FAX (386) 252-7371

LEVEL THREE UNIT PLAN

OCEAN GARDEN CONDOMINIUM

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STATE OF FLORIDA
COUNTY OF VOLUSIA

JOHN J. MATEJKA III, deposes and says on oath as follows, to wit:

1. That he is a duly registered and duly licensed land surveyor authorized to practice under the laws of the state of Florida.
2. Affiant hereby certifies that the IMPROVEMENTS shown within these exhibits, ARE EXISTING, so that these exhibits, together with the provisions of the Declaration of Condominium describing the Condominium Property, is an accurate representation of the location and dimensions of the improvements and so that the identification, location and dimensions of the common elements and of each unit can be determined from these materials.
3. And further, that all planned improvements, including, but not limited to landscaping, utility services and access to the units identified herein and common element facilities serving the herein identified units have been substantially completed in accordance with the provisions of Florida Statute 718.104.
4. That the elevations shown hereon are relative to the National Geodetic Vertical Datum of 1929, based on project datum.

J.J. MATEJKA & ASSOCIATES, INC., LB6883
FURTHER AFFIANT SAYETH NAUGHT

By: _____
Date: 2-24-06

John J. Matejka III, President
PROFESSIONAL SURVEYOR AND MAPPER LS4002
State of Florida

J.J. MATEJKA & ASSOCIATES, INC.
 PROFESSIONAL SURVEYORS & MAPPERS
 LICENSED BUSINESS #6883
 408 HARVEY AVENUE
 DAYTONA BEACH, FL 32118
 PHONE/FAX (386) 252-7371

CERTIFICATION

State of Florida



Department of State

I certify from the records of this office that OCEAN GARDEN ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on July 6, 2006.

The document number of this corporation is N [REDACTED]

I further certify that said corporation has paid all fees due this office through December 31, 2006, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

I further certify that this is an electronically transmitted certificate authorized by section 15.16, Florida Statutes, and authenticated by the code, 506A00044029-070706-N [REDACTED] 1, noted below.

Authentication Code: 506A00044029-070706-N [REDACTED] 1

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Seventh day of July, 2006



Sue M. Cobb
Sue M. Cobb
Secretary of State

State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of OCEAN GARDEN ASSOCIATION, INC., a Florida corporation, filed on July 6, 2006, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number [REDACTED]. 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 N [REDACTED]

Authentication Code: 506A00044029-070706-N [REDACTED] 1

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Seventh day of July, 2006



Sue M. Cobb
Sue M. Cobb
Secretary of State



July 7, 2006

FLORIDA DEPARTMENT OF STATE
Division of Corporations

OCEAN GARDEN ASSOCIATION, INC.
102 S. PENINSULA DRIVE
DAYTONA BEACH, FL 32118

The Articles of Incorporation for OCEAN GARDEN ASSOCIATION, INC. were filed on July 6, 2006, and assigned document number N [REDACTED]. Please refer to this number whenever corresponding with this office.

Enclosed is the certification requested. To be official, the certification for a certified copy must be attached to the original document that was electronically submitted and filed under FAX audit number H [REDACTED].

A corporation annual report/uniform business report will be due this office between January 1 and May 1 of the year following the calendar year of the file/effective date year. A Federal Employer Identification (FEI) number will be required before this report can be filed. Please apply NOW with the Internal Revenue Service by calling 1-800-829-3676 and requesting form SS-4 or by going to their website at www.irs.ustreas.gov.

Please be aware if the corporate address changes, it is the responsibility of the corporation to notify this office.

Should you have questions regarding corporations, please contact this office at the address given below.

Claretha Golden
Document Specialist
New Filings Section
Division of Corporations

Letter Number: 506A00044029

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**ARTICLES OF INCORPORATION
OF
OCEAN GARDEN ASSOCIATION, INC.
(A Florida Not For Profit Corporation)**

**ARTICLE I.
NAME**

The name of this corporation is **OCEAN GARDEN ASSOCIATION, INC.** The principal office address of the corporation shall be **102 S. Peninsula Drive, Daytona Beach, Florida 32118.** For convenience, the corporation shall be referred to in this instrument as the "Association," these Articles of Incorporation as the "Articles" and the Bylaws of the Association as the "Bylaws."

**ARTICLE II.
PURPOSE**

A. General

This Association is organized for the purpose of providing an entity under the Florida Condominium Act (the Act) for the operation of a condominium located in Volusia County, Florida, and known as Ocean Garden, A Condominium (the condominium), created pursuant to the declaration of condominium (the declaration). To accomplish the foregoing the corporation shall have all corporate powers permitted under Florida law.

**ARTICLE III.
MEMBERS**

The definition and qualification of Members and the manner of their admission shall be as described in and regulated by the Bylaws.

**ARTICLE IV.
INITIAL REGISTERED OFFICE AND REGISTERED AGENT**

The street address of the initial registered office of this corporation is **102 S. Peninsula Drive, Daytona Beach, Florida 32118** and the name of the initial registered agent of this corporation at that address is **Mary Stephens.**

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**ARTICLE V.
EXISTENCE AND DURATION**

Existence of the Association shall commence with the filing of these Articles of Incorporation with the Department of State, Tallahassee, Florida. The Association shall exist in perpetuity.

**ARTICLE VI.
FIRST BOARD OF DIRECTORS**

The number of persons constituting the first board of directors shall be three and their names and addresses are as follows:

<u>Name</u>	<u>Address</u>
Mary Stephens	125 Oceanshore Boulevard Ormond Beach, FL 32176
William Stephens	125 Oceanshore Boulevard Ormond Beach, FL 32176
William Scheidegger	12 Arbor Lakes Park Ormond Beach, FL 32174

The directors shall be elected pursuant to the Bylaws.

**ARTICLE VII.
FIRST OFFICERS**

The names and addresses of the officers who shall serve until the first election are as follows:

<u>Office</u>	<u>Name</u>	<u>Address</u>
President/Secretary/Treasurer	Mary Stephens	125 Oceanshore Boulevard Ormond Beach, FL 32176

**ARTICLE VIII.
INCORPORATOR**

The name and address of the incorporator to these Articles is **Mary Stephens, 102 S. Peninsula Drive, Daytona Beach, Florida 32118.**

**ARTICLE IX.
DISSOLUTION**

This corporation may be dissolved only upon termination of the Condominium in accordance with the Declaration, or transfer of all rights and assets to the Members in accordance to their interests or to another not for profit entity established for the benefit of the Members as defined in and described in the Bylaws.

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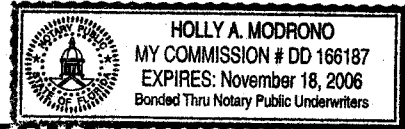
IN WITNESS WHEREOF the undersigned incorporator has executed these Articles of incorporation on 7/3, 2006.

[Signature] (SEAL)
MARY STEPHENS, Incorporator

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 3 day of July, 2006, by MARY STEPHENS, who is personally known to me and who did not take an oath.

Holly A. Modrono
Notary Public,
State of Florida at Large.
My Commission expires:



ACCEPTANCE OF DESIGNATION

Having been named as registered agent to accept service of process for the above stated corporation, at the place designated in these Articles, I agree to act in this capacity and I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties.

[Signature]
MARY STEPHENS

EXHIBIT C
BYLAWS
OF
OCEAN GARDEN ASSOCIATION, INC.
(A Florida Not For Profit Corporation)

ARTICLE I

Section 1. - Identity. These are the Bylaws of OCEAN GARDEN ASSOCIATION, INC., called "Association in these Bylaws, a corporation not for profit under the laws of the State of Florida. The Articles of Incorporation of the Association (hereinafter referred to as "Articles") were filed in the office of the Secretary of State on July 6, 2006. The Association has been organized for the purpose of administering a condominium pursuant to Chapter 718, Florida Statutes, called The Condominium Act in these Bylaws, which condominium is identified by the name OCEAN GARDEN CONDOMINIUM, (hereinafter referred to as the "Condominium") and is located at **102 S. Peninsula Drive, Daytona Beach, Florida 32118**.

Section 2. The office of the Association shall be **102 S. Peninsula Drive, Daytona Beach, Florida 32118**.

Section 3. The fiscal year of the Association shall be the calendar year.

Section 4. The seal of the corporation shall bear the name of the corporation, the word "Florida", the words "Corporation not for profit" and the year of incorporation, an impression of which is as follows:

(impression of seal)

ARTICLE II

Membership, Voting, Majority of Owners, Quorum, Proxies

Section 1. - Membership. The Owner of each Unit (hereinafter referred to as "Owner" and "Unit", respectively, with the same definitions as stated in the Declaration), shall automatically be members (hereinafter referred to as "Members") of the Association during the term of ownership, as provided in the Declaration of Condominium of OCEAN GARDEN CONDOMINIUM (The Declaration). An individual Owner may be referred to as a "Member".

Section 2. - Voting. Voting shall be based on Unit ownership as provided in the Declaration and each Unit shall be entitled to one vote, except that where a Unit is owned by the Association no vote shall be allowed for such Unit. If a Unit is owned by one person, the Owner's right to vote shall be established by the record title to the Unit. If a Unit is owned by more than one person, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by all of the record Owners of the Unit and filed with the Secretary of the Association. If a Unit is owned by an artificial entity, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by the person or persons legally entitled to bind the entity, and filed with the Secretary of the Association. Such certificates shall be valid until revoked or until superseded by

a subsequent certificate or until a change in the ownership of the Unit concerned. A certificate designating the person entitled to cast the vote of a Unit may be revoked by any record owner of a Unit. If such a certificate is not on file, the vote of such Owners shall not be considered in determining the requirement for a quorum nor for any other purpose. The person designated to vote for a Unit is hereinafter referred to as the "Designated Voter".

Section 3. - Majority of Owners. As used in these Bylaws, the term "Majority of Owners", shall mean those Owners holding a majority of the votes in accordance with the votes as assigned in the Declaration.

Section 4. - Quorum. Except as otherwise provided in these Bylaws, the presence in person or by proxy of a "Majority of Owners" as defined in Section 3 of this Article shall constitute a quorum.

Section 5. - Proxies. Votes may be cast in person or by proxy to the extent permitted by applicable laws. Owners may vote by General Proxy only on items where permitted by law; Unit Owners may vote only by limited proxies substantially conforming to a limited proxy form adopted by the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation in the following matters: Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves in accordance with 718.112(2)(f)2.; for votes taken to waive financial statement requirements as provided by s. 718.111(14); for votes taken to amend the Declaration pursuant to s. 718.110; for votes taken to amend the Articles of Incorporation or Bylaws pursuant to s. 718.112(2)(b)2; and for any other matter for which chapter 718 requires limited proxies to be used. No proxy, limited or general, shall be used in the election of Board Members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given.

Notwithstanding the foregoing provisions, Unit Owners may vote in person at Unit Owner meetings. A proxy may be made by any person entitled to vote and shall name the person authorized to vote, shall state the date, time and place of the meeting for which the proxy is given and shall be valid only for the particular meeting designated in the proxy or if adjourned to date, time and place certain, and any continuation thereof. A proxy must be filed with the Secretary at or before the appointed time of the meeting, or if given for the continued portion of an adjourned meeting, before the time to which the meeting is adjourned. In no event shall any proxy be valid for a period longer than Ninety (90) days after the date of the first meeting for which it was given. Every proxy is revocable at any time at the pleasure of the Unit Owner executing it.

ARTICLE III **Administration**

Section 1. - Association Responsibilities. The Owners of the Units are the Members of this non-profit corporation. The Association has the responsibility for administering the Condominium, approving the annual budget, establishing and collecting monthly assessments, managing the Condominium and performing any other act required or permitted by the Condominium Act, the Administrative Rules implemented in accordance with the Condominium Act, the Declaration and the Articles, and the Rules and Regulations of the Condominium.

Section 2. - Place of Meetings. Meetings of the Association shall be held at the principal office of the development or such other suitable place convenient to the Owners as may be designated by the of Directors (referred to hereafter collectively as the "Board" or "Board of Directors" and individually as the "Directors" or "Board Members").

Section 3. - Annual Meeting. The annual Members' meeting of the Association shall be held at 3:00 o'clock P.M. on the first Monday in December in each year, unless otherwise noticed by the Board of Directors, for the purpose of electing Directors and transacting any other business authorized to be transacted by the Members. Florida Statutes require that Unit Owners meet at least once in each calendar year and such meeting shall be the annual meeting.

Section 4. - Special Meetings. It shall be the duty of the President to call a special meeting of the Owners as directed by resolution of the Board of Directors or upon a petition signed by Twenty-five (25%) percent of the Owners and having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of four-fifths of the votes present, either in person or by proxy. The "turnover" meeting, as provided in Article IV, Section 2. e., shall be considered a special meeting, unless it takes place at the annual meeting.

Section 5. - Notice of Meetings. It shall be the duty of the Secretary to mail to each Unit Owner at least Fourteen (14) days prior to the annual meeting and to post at a conspicuous place on the condominium property for at least Fourteen (14) continuous days preceding the annual meeting, a notice of each annual meeting, stating the purpose thereof as well as the time and place where it is to be held, which notice shall include an agenda. A certificate of mailing shall be retained as proof of such mailing. Unit Owners may waive notice of meetings in writing prior to, at or after said meeting, which waiver shall be filed as part of the minutes of the meeting. Notice of special meetings of the Owners of Units shall be given as required by applicable law. Where a Unit is owned by more than one person, the Association shall provide notice, for meetings and all other purposes, to the address and in the name of the Designated Voter, and if no address is given or no valid Designated Voter exists, one notice shall be sent to the Owners at the address provided on the deed of record.

Section 6. - Adjourned Meetings. If any meeting of Owners cannot be organized because a quorum has not attended, the Owners who are present, either by proxy or in person, may adjourn the meeting to a time not more than Forty-eight (48) hours from the time the original meeting was called. If the business for which the meeting is called is not completed, the meeting may be adjourned to a date, time and place certain, not more than Ten (10) days from the time the original meeting was called.

Section 7. - Order of Business. At annual Members' meetings and as far as practical at other Members' meetings, the order of business shall be:

- a. Collection of Election Ballots
- b. Selection of chairman of meeting
- c. Calling of the roll and certifying of proxies
- d. Proof of notice of meeting or waiver of notice
- e. Reading and disposal of any unapproved minutes
- f. Reports of officers
- g. Reports of committees
- h. Election of inspectors of election
- i. Election of Directors
- j. Unfinished business
- k. New business
- l. Adjournment.

Section 8. - Parliamentary Rules. Roberts Rules of Order (latest revision and edition) shall govern the conduct of the Association and Board of Directors meetings when not in conflict with the Declaration of Condominium or these Bylaws.

Section 9. - Indemnification of Directors and Officers. The Association shall indemnify any and all persons who may serve or who have served at any time as Directors or officers, and their respective heirs, administrators, successors and assigns, against any and all expenses, including amounts paid upon judgments, counsel fees, and amounts paid in settlements (before or after suit is commenced), actually and necessarily incurred by such persons in connection with the defense or settlement of any claim, action, suit or proceeding in which they, or any of them, are made parties, or a party, or which may be asserted against them, or any of them, by reason of having been Directors or officers, or a Director or officer of the Association, except in such cases wherein the Director or officer is adjudged guilty of willful misfeasance, or malfeasance, in the performance of his duties. Such indemnification shall be in addition to any rights to which those indemnified may be entitled under any law, bylaw, agreement, vote of Members, or otherwise.

ARTICLE IV
Board of Directors

Section 1. - Number and Qualifications. The initial Board of Administration, referred to herein as the Board of Directors, consists of the three (3) persons named in the Articles of Incorporation. After turnover of control of the Association to Owners, the number shall be increased to Five (5).

Section 2. - Election. Election of Directors shall be conducted in the following manner:

- a. Election of Directors shall be held at the annual Members' meeting.
- b. At least Sixty (60) days prior to the scheduled election, the Association shall mail or deliver a first notice to all Unit Owners of the date of the election. Unit Owners or other eligible persons who desire to run for the board must give written notice to the secretary not less than Forty (40) days prior to the scheduled election. The Association shall then mail or deliver a second notice of the election to all Unit Owners, together with a ballot listing all the candidates, no less than fourteen (14) days and no more than thirty four (34) days prior to the election. If requested by a candidate, an information sheet, furnished by the candidate not less than Thirty-five (35) days prior to the election, will be included with the mailing of the ballot. Ballots received shall be handled as set forth in Florida Administrative Rule 61B [REDACTED]. At the meeting of the Association at which an election will be held, ballots not yet cast shall be collected as the first order of business.
- c. The election shall be by written ballot or voting machine and by a plurality of the votes cast, each person voting being entitled to cast his or her vote for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting and no minimum number of votes necessary for election; however, at least Twenty (20%) percent of the eligible voters must cast a ballot in order to have a valid election of Directors. Notwithstanding the provisions of this subparagraph, an election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the board.
- d. Except as to vacancies provided by removal of Directors by Members, vacancies in the Board of Directors occurring between annual meetings of Members may be filled by the remaining Directors. This section is subject to the provisions of section 15 below.
- e. Pursuant, to 718.301, Florida Statutes, when Unit Owners other than the Developer own 15 percent or more of the Units in the Condominium that will be operated ultimately by the Association, the Unit Owners other than the Developer shall be entitled to elect one-third of the members of the Board of Directors of the Association. Unit Owners other than the Developer are entitled to elect a majority of the members of the Board of Directors of the Association:

1. Three years after fifty percent (50%) of the Units that will be operated ultimately by the Association have been conveyed to purchasers;
2. Three months after ninety percent (90%) of the Units that will be operated ultimately by the Association have been conveyed to purchasers;
3. When all the Units that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business;
4. When some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business; or
5. When some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business; or
6. Seven years after recordation of the Declaration of Condominium, whichever occurs first.

In order to comply with Fannie Mae guidelines, Unit Owners other than the Developer shall be entitled to elect a majority of the members of the Board of Directors of the Association, earlier than required by statute being Five years after the first unit is conveyed.

Pursuant to Florida Statute, the Developer is entitled to elect at least one member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business at least five percent (5%), in condominiums with fewer than five hundred (500) units, of the Units operated by the Association. Following the time the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer-owned Units in the same manner as any other Unit Owner except for purposes of reacquiring control of the Association or selecting the majority members of the Board of Directors.

f. Within seventy-five (75) days after the Unit Owners other than the Developer are entitled to elect a member or members of the Board of Directors of the Association, the Association shall call, and give not less than sixty (60) days' notice of an election for the members of the Board of Directors. The election shall proceed as provided in s. 718.112(2)(d), Florida Statutes. The notice may be given by any Unit Owner if the Association fails to do so. Upon election of the first Unit Owner other than the Developer to the Board of Directors, the Developer shall forward to the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation, the name and mailing address of the Unit Owner Board Member.

g. If the Developer holds Units for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Developer:

1. Assessment of the Developer as a Unit Owner for capital improvements.
2. Any action by the Association that would be detrimental to the sales of Units by the Developer. However, an increase in assessments for common expenses without discrimination against the Developer shall not be deemed to be detrimental to the sales of Units.

Section 3. - Term. The term of each Director's service shall extend until the next annual

meeting of the Members and subsequently until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided.

Section 4. - Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or by these Bylaws directed to be exercised and done by the Owners.

Section 5. - Other Duties. In addition to the duties imposed by these Bylaws or by the resolutions of the Association, the Board of Directors shall be responsible for the following:

- a. Compliance with all the terms and conditions of the Declaration.
- b. Care and upkeep of the condominium and the common areas and facilities and limited common areas and facilities.
- c. Collection of monthly assessments from the Owners.
- d. Employment, dismissal, and control of the personnel necessary for the maintenance and operation of the project, the common elements, limited common elements, and facilities of the Condominium.

Section 6. - Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the Owners as herein provided shall be filled by the vote of a majority of the remaining Directors, and each person so elected shall be a Director until a successor is elected at the next annual meeting of the Association. This section is subject to the provisions of section 1 below.

Section 7. - Compensation. The Board Members shall serve without compensation, although they shall be reimbursed for reasonable costs incurred in the performance of their duties. In the event that a Board Member is requested to perform duties beyond those expected of a Director, he or she, if approved by a Majority of Directors, receive reasonable compensation for the performance of the unique duties performed .

Section 8. - Removal of Directors. At the annual or any special meeting of the Members duly called for that purpose; or by agreement in writing, any one or more of the Directors may be removed with or without cause by a majority vote of all Unit Owners and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed shall be given an opportunity to be heard at the meeting. A meeting to remove a member or Board Members may be called by Ten percent (10%) of the Unit Owners giving notice of the meeting as required for a meeting of Unit Owners and such notice shall state the purpose of the meeting. This section is subject to the provisions of section 15 below.

Section 9. - Organization Meeting. The first meeting of a newly elected Board of Directors shall be held within Ten (10) days after election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, providing a majority of the whole Board shall be present.

Section 10. - Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but at least Four (4) such meetings shall be held during each fiscal year. Notice of regular

meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone or telegraph, at least Three (3) days prior to the time set for such meeting.

Section 11. - Special Meetings. Special meetings of the Board of Directors may be called by the President on three days notice to each Director, given personally or by mail, telephone or telegraph, which notice shall state the meeting time, place (as herein above provided) and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least One (1) Director.

Section 12. - Waiver of Notice. Before, at or after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 13. - Board of Directors' Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 14. - Notice of Board of Directors Meetings to Unit Owners. Notwithstanding any other provision of these Bylaws, all meetings of the Board of Directors shall be open to all Unit Owners and notices of meetings and adjourned meetings shall be posted at a conspicuous place on the condominium property for at least Forty-eight (48) continuous hours in advance of the meeting for the attention of Unit Owners except in an emergency.

Section 15. - When Both Developer and Unit Owners are Entitled to Representation on the Board of Directors. When both the Developer and other Unit Owners are entitled to representation on the Board of Directors, the following provisions apply:

- a. Only Units owned by the Developer shall be counted to establish a quorum for a meeting to recall and/or replace a Board Member who was elected or appointed by the Developer.
- b. The percentage of voting interests required to recall a Board Member who was elected or appointed by the Developer is a majority of the total Units owned by the Developer.
- c. A Board Member who is elected or appointed by the Developer may be recalled only by the Developer.
- d. Only the Developer may vote, in person or by limited proxy, to fill a vacancy on the board previously occupied by a Board Member elected or appointed by the Developer.
- e. Only Units owned by Unit Owners other than the Developer shall be counted to establish a quorum for a meeting to recall and/or replace a Board Member who was elected by Unit Owners other than the Developer.

f. The percentage of voting interests required to recall a Board Member who was elected by Unit Owners other than the Developer is a majority of the total Units owned by Unit Owners other than the Developer.

g. A Board Member who is elected by Unit Owners other than the Developer may be recalled only by Unit Owners other than the Developer.

h. Only Unit Owners other than the Developer may vote, in person or by limited proxy, to fill a vacancy on the board previously occupied by a Board Member elected by Unit Owners other than the Developer.

ARTICLE V Officers

Section 1. - Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by the Board of Directors. The Directors may appoint an assistant treasurer, and an assistant secretary, and such other officers, including one or more vice presidents, as in their judgment may be necessary. The officers of the Association shall have a fiduciary relationship to the Unit Owners.

Section 2. - Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board, and shall hold office at the pleasure of the Board.

Section 3. - Removal of Officers. Upon an affirmative vote of a majority of the Board Members, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose.

Section 4. - President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of the president of an association including, but not limited to, the power to appoint committees from among the Owners, from time to time as he may, in his discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. - Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to so do on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

Section 6. - Secretary. The Secretary shall keep in a book in a businesslike manner the minutes of all meetings of the Board of Directors of all meetings of the Association, all of which minutes shall be available for inspection by Unit Owners and Board Members at all reasonable times; such minutes shall be retained for a period of not less than Seven (7) years; she shall have charge of such books and papers as the Board of Directors may direct; and she shall, in general, perform all of the duties incident to the office of Secretary.

Section 7. - Treasurer. The Treasurer shall also have responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association in accordance with good accounting practices which shall be open to Unit Owners or their authorized representatives at reasonable times and written summaries of which shall be supplied at least annually to Unit Owners or their authorized representatives. Such accounting records shall include a record of all receipts and expenditures,

an account for each Unit which shall designate the name and address of the Unit Owners, the amount of each assessment, the dates and amounts in which the assessments come due, the amounts paid upon the account and the balance due; all such accounting records shall be maintained for a period of not less than Seven (7) years. She shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors.

Section 8. - Fidelity Bonding. The Association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association at any one time. The phrase "persons who control or disburse funds of the association" includes, but is not limited to, those individuals authorized to sign checks and the president, secretary, and treasurer of the association. The Association shall bear the cost of bonding.

ARTICLE VI

Fiscal Management

The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions:

Section 1. - Accounts. The receipts and expenditures of the Association set forth in the Declaration and Articles of Incorporation shall be documented by the Association.

Section 2. - Budget. The Board of Directors shall adopt a budget for each calendar year. A copy of the proposed annual budget of common expenses shall be mailed to the Unit Owners not less than Fourteen (14) days prior to the meeting at which the budget will be considered. The Unit Owners shall be given written notice of the time and place at which the meeting of the Board of Directors to consider the budget shall be held, and such meeting shall be open to the Unit Owners. If a budget is adopted by the Board of Directors providing for assessment against the Unit Owners in any fiscal or calendar year exceeding one hundred and fifteen percent (115%) of the assessment for the preceding fiscal year, the board shall conduct a special meeting of the unit owners to consider a substitute budget if the board receives, within twenty-one (21) days after adoption of the annual budget, a written request for a special meeting from at least ten percent (10%) of all voting interests. The special meeting shall be conducted within 60 days after adoption of the annual budget. At least fourteen (14) days prior to such special meeting, the Board shall hand deliver to each Unit Owner, or mail to each Unit Owner at the address last furnished to the association, a notice of the meeting. Unit Owners may consider and adopt a substitute budget at the special meeting. A substitute budget is adopted if approved by a Majority of all Owners, which Florida statute defines as majority of all voting interests. If there is not a quorum at the special meeting or a substitute budget is not adopted, the annual budget previously adopted by the board shall take effect as scheduled. Provided, however, that so long as the Developer is in control of the Board of Directors, the Board shall not impose an assessment for a year greater than one hundred and fifteen (115%) of the prior fiscal or calendar year's assessments without approval of a Majority of all Owners, which Florida Statute defines as majority of all the voting interests. The budget shall take into account those items specified in the Declaration and these Bylaws and as may be provided by law from time to time.

Section 3. - Assessments. Assessments against the Unit Owners for their shares of the items of the budget shall be made for the calendar year annually in advance on or before December 10 preceding the year for which the assessments are made. Such assessment shall be payable in Twelve (12) equal monthly installments on the 1st day of each month commencing on January 1st of the year for which the assessment is made. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment and monthly installments on such assessment shall be due upon each installment

payment date until changed by an amended assessment. In the event the annual assessment proves to be insufficient, the budget and assessments may be amended by the Board of Directors if the accounts of the amended budget do not exceed the limitations for that year. The amendments of any account that does exceed the limitation as provided in these Bylaws shall be subject to notices and procedures as required in these Bylaws. The unpaid assessment for the remaining portion of the calendar year for which the amended assessment is made shall be due in monthly payments. Assessments shall be paid monthly and in amounts no less than are required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. Any funds remaining at the end of the year or at the direction of the Board of Directors may be applied to reduce the assessment for the following year.

Section 4. Interest; Late Fee; Application of Payments. Pursuant to Section 718.116(3); interest shall be charged on delinquent installments at the rate of Eighteen (18%) percent per annum, or such maximum amount as is permitted at the time of assessment. Furthermore, a late fee shall be charged in an amount not to exceed the greater of Twenty-five dollars (\$25.00) or Five (5%) percent of the assessment for each delinquent installment, but said late fee may not be included in a lien. Any payment received by an association shall be applied first to any interest accrued by the Association, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in the collection, and then to the delinquent assessment. The Declaration contains additional provisions regarding the Association's right to impose a lien and foreclose said lien in the event of non-payment.

Section 5. - Acceleration of Assessment Installments Upon Default. If a Unit Owner shall be in default in the payment of an installment upon an assessment, the Board of Directors may to the maximum extent permitted by law accelerate the remaining installments of the assessment upon notice to the Unit owner. Accelerated assessments shall be due and payable on the date the claim of lien is filed. Such accelerated assessments shall include the amounts due for the remainder of the budget year in which the claim of lien was filed.

Section 6. - Assessments for Emergencies. Assessments for common expenses in the case of emergencies for which there are not sufficient funds available from payment of annual assessments for common expenses shall be made only after notice of the need for such is given to the Unit Owners. After such notice and upon approval in writing by persons entitled to cast more than one-half of the votes of the Unit Owners, the assessment shall become effective, and it shall be due after Thirty (30) days' notice in such manner as the Board of Directors of the Association may require in the notice of assessment.

Section 7. - Additional Assessments. Additional assessments may be made, upon affirmative vote of a majority of the Unit Owners, to establish reserves for capital improvements. Such funds are to be earmarked for specific capital improvements and are to be considered as contributions of capital.

Section 8. - Legal Action, Requirement to Notify Unit Owners. In any legal action in which the Association may be exposed to liability in excess of insurance coverage protecting it and the Unit Owners, the Association shall give notice of the exposure within a reasonable time to all Unit Owners who may be exposed to the liability and they shall have the right to intervene and defend. A copy of each insurance policy obtained by the Association shall be made available for inspection by Unit Owners at reasonable times.

ARTICLE VII

Obligations of the Owners

Section 1. - Assessments. Owners are obligated to pay monthly assessments imposed by this Association against their respective Units to meet all common expenses.

Section 2. - Maintenance and Repair.

a. Each Unit Owner must perform promptly all maintenance and repair work within the Owner's Unit, which if omitted would affect the condominium in its entirety or a part belonging to other Owners, each Unit Owner being expressly responsible for the damage and liability that his failure to do so may cause.

b. Repairs to installations within the Unit, such as water, light, gas, power, sewage, telephone, air conditioners, sanitary installations, doors, windows, lamps, and other accessories belonging to the Unit are, except those items which by the Declaration are specifically the responsibility of the Association, shall be at the owner's expense, unless the repair is covered by insurance.

Section 3. - Use of Units - Internal Changes.

a. All Units shall be utilized for residential purposes only.

b. An owner, other than the Developer, shall not make structural modifications, alterations or installations in the Owner's Unit except after following the procedures provided in the Declaration and these Bylaws.

Section 4. - Use of Common Elements and Facilities and Restricted Common Elements and Facilities. An owner shall not place or cause to be placed in the stairways, vestibules, and other Common Elements and facilities furniture, obstructions, or objects of any kind. Such areas shall be furnished by the Association and used for normal transit through them.

Section 5. - Right of Entry. The Association has the irrevocable right of access to each Unit during reasonable hours, when necessary for maintenance, repair, or replacement of any common elements or of any portion of a Unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the common elements or to Unit or Units.

Section 6. - Rules of Conduct. The Board of Directors of the Association may adopt Rules and Regulations governing the conduct of Unit Owners in accordance with the provisions of these Bylaws.

ARTICLE VIII

Rules and Regulations, Committees

Section 1. - Adoption. The Board of Directors of the Association shall have the power by a two-thirds ($\frac{2}{3}$) vote of all of the Board Members, to adopt Rules and Regulations for the operation of the condominium, for the use of condominium property and governing the conduct of the Unit Owners. They may also amend the Rules and Regulations by implementing new rules, deleting rules or amending rules upon the vote of two-thirds ($\frac{2}{3}$) of the Directors at a properly called and noticed Board of Directors meeting.

Section 2. - Committees. The Board of Directors of the Association shall have the power, by a two-thirds ($\frac{2}{3}$) vote of all of the Board Members, to adopt rules and regulations establishing committees for the following purposes:

- a. Budget
- b. Parking control
- c. Pet control
- d. Such other purposes as the Board of Directors may establish

The Board of Directors may establish by resolution the purpose of each committee, outline its mission and its authority, and determine the number of Committee Members to serve on the committees and their qualifications and appoint the Committee Members of such committees who shall serve at the pleasure of the Board of Directors. Members of committees are referred to as Committee Members.

ARTICLE IX

Enforcement

Section 1. - Review Committee. For the purposes of enforcing the terms and provisions of the Declaration of Condominium and the Articles of Incorporation of OCEAN GARDEN ASSOCIATION, INC., enforcing these Bylaws and the Rules and Regulations adopted by the Board of Directors, the OCEAN GARDEN REVIEW COMMITTEE (hereinafter referred to as "Review Committee") is hereby created and established.

a. **Composition.** The Review Committee shall consist of Three (3). The members of the committee (hereinafter referred to as "Review Committee Members") shall be appointed by the Board of Directors and shall serve for a term of One (1) year and thereafter until their successor is appointed. The Review Committee shall elect from its members its own chairman and its own secretary who shall keep minutes of all proceedings of the Review Committee.

b. **Duty to Investigate.** It shall be the duty of the Review Committee to investigate any alleged violation of the terms and provisions of the Declaration of Condominium, the Articles of Incorporation of the OCEAN GARDEN ASSOCIATION, INC., these Bylaws and the Rules and Regulations adopted by the Board of Directors of the Association. Alleged violations may be brought to the Review Committee by a complaint in writing signed by a Unit Owner and referred to the Review Committee by the Board of Directors, or the Review Committee may act upon its own motion.

c. **Written Complaint.** An action under this section may be initiated upon the filing of a written complaint with the Board by any Member of the Association or by any officer or member of the Board of Directors. The complaint shall constitute a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged, to the end that the respondent will be able to prepare his defense. The complaint shall specify the specific provisions of The Condominium Act, the Declaration of Condominium, Articles of Incorporation, Bylaws or Rules and Regulations which the respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of such provisions without supporting facts.

d. **Service of Complaint.** Upon the filing of the complaint, the Board shall serve a copy thereof on the respondent by any of the following means: (1) personal delivery or (2) by registered or certified mail, return receipt requested, and addressed to respondent, at the address appearing on the books of the Association. Service by mailing or posting shall be deemed delivered and effective two (2) days after such posting and mailing in a regular depository of the United States mail. The complaint shall be accompanied with a post card or other written form entitled "Notice of Defense" which, when signed by the respondent, or on behalf of respondent, will constitute a notice of defense hereunder. No order adversely affecting the rights of the respondent shall be made in any case, unless the respondent shall have been served as provided herein. The matter shall then be referred to the Review Committee for hearing.

e. **Notice of Hearing.** Along with service of complaint, the Review Committee shall serve a Notice of Hearing, as provided herein, on all parties at least Ten (10) days prior to

the hearing. The notice to the respondent shall be substantially in the following form but may include other information:

"You are hereby notified that a hearing will be held before the OCEAN GARDEN REVIEW COMMITTEE, 102 S. Peninsula Drive, Daytona Beach, Florida 32118, on the ____ day of _____, 200__, at the hour of ____ upon the charges made in the complaint served upon you. You may be present at the hearing, may but need not be represented by counsel, may have a court reporter present at the hearing, may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to compel the attendance of witnesses and the production of books, documents or other items by applying to the Board of Directors of the Association."

If any of the parties can, within Twenty-four (24) hours, show good cause as to why they cannot attend the hearing on the set date and indicate times and dates on which they would be available the Review Committee may reset the time and date of hearing and promptly deliver notice of the new hearing date.

f. Notice of Defense. Service of complaint and Notice of hearing shall be accompanied by a Notice of Defense.

The Notice of Defense shall state the respondent may:

(1) Attend a hearing before the Review Committee as hereinafter provided;

(2) Object to a complaint upon the grounds that it does not state acts or omissions upon which the Review Committee may proceed;

(3) Object to the form of the complaint on the grounds that it is so indefinite or uncertain that the respondent cannot identify the violating behavior or prepare his defense; or

(4) Admit to the complaint in whole or in part. In such event the Review Committee shall meet to determine appropriate action or penalty, if any. Any objections to the form or substance of the complaint shall be considered by the Review Committee within Ten (10) days of their receipt. The Review Committee shall make its determination and notify all parties within said Ten (10) day period. If the complaint is insufficient, the complaining party shall have Seven (7) day within which to amend the complaint to make it sufficient. The same procedure as set forth above shall be followed with respect to any amended or supplemental complaint. If it is determined by the Review Committee that the complaint is still insufficient, then the matter shall be dismissed by the Review Committee.

g. Cease and Desist Orders. The Review Committee may, at its own discretion, issue a cease and desist order, along with the complaint statement to respondent and Notice of Defense, such cease and desist order to be substantially in the following form:

"The OCEAN GARDEN REVIEW COMMITTEE has received the attached complaint.

The Review Committee hereby requests that you CEASE AND DESIST such acts or actions until such time, if any, as a ruling of the Review Committee or court of law permits.

Failure to comply with this request may result in penalty greater than that which would be imposed for a single violation."

h. Amended or Supplemental Complaints. At any time prior to the hearing date, the Review Committee may file or permit the filing of an amended or supplemental complaint. All parties shall be notified thereof in the manner herein provided. If the amended or supplemental complaint presents new charges, the Review Committee shall afford the respondent a reasonable opportunity to prepare his defense thereto.

i. Discovery. Upon written request to the other party, made prior to the hearing and within Fifteen (15) days after service of the complaint by the Review Committee or within Ten (10) days after service of any amended or supplemental complaint, either party is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, and (2) inspect and make a copy of any statements, writing and investigative reports relevant to the subject matter of the hearing. Nothing in this section, however, shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product. Any party claiming his request of discovery has not been complied with shall submit a petition to compel discovery with the Review Committee. The Review Committee shall make a determination and issue a written order setting forth the matters or parts thereof which the petitioner is entitled to discover.

j. Notarized Statements. At any time Ten (10) or more days prior to a hearing or a continued hearing, any party shall mail or deliver to the opposing party a copy of any sworn statement which that party proposes to introduce in evidence, together with a notice as provided below. Unless the opposing party, within Seven (7) days after such mailing or delivery, mails or delivers to the proponent a request to cross-examine the statements' author, his right to cross-examine such author is not afforded after request is made as herein provided; the statement may be introduced in evidence, but shall be given only the same effect as hearsay evidence.

k. Constraints on the Committee. It shall be incumbent upon each Review Committee Member to make a determination as to whether he is able to function in a disinterested and objective manner in consideration of the case before it. Any member incapable of such objective consideration of the case shall disclose such to the Review Committee and remove himself from the proceedings and have it so recorded in the minutes. In any event, the respondent may challenge any Review Committee Member for cause, where a fair and impartial hearing cannot be afforded, at any time prior to the taking of evidence and testimony at the hearing. In the event of such a challenge, the Review Committee shall meet to determine the sufficiency of the challenge. If a majority of the Review Committee sustains the challenge, the President shall appoint a member to replace the challenged Review Committee Member.

l. Hearing.

(1) Whenever the Review Committee has commenced to hear the matter and a Review Committee Member is forced to withdraw prior to a final determination, the remaining members shall continue to hear the case and the President shall replace the withdrawing member. Oral evidence shall be taken only on oath or affirmation administered by an officer of the Association.

(2) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses; and to rebut the evidence against him. Even if the respondent does not testify on his own behalf, he may still be called and examined as if under cross-examination.

(3) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Generally, any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may

be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding.

(4) The chairman of the Review Committee shall serve as hearing officer and preside over the hearing. At the beginning of the hearing, the hearing officer shall explain the rules and procedures by which the hearing is to be conducted. Generally, each principal is entitled to make an opening statement, starting with the complainant. Then each party is entitled to produce evidence, witnesses and testimony and to cross-examine the witnesses and opposing party. Then each party is entitled to make a closing statement. Any party may waive the rights to exercise any part of this process, and the Review Committee is entitled to exercise its discretion as to the specific manner in which the hearing will be conducted, so long as the above rights are protected.

m. Authorized Action. At the conclusion of testimony, the Review Committee shall deliberate the evidence. By a vote of its members, the Review Committee shall determine whether the allegations as presented constitute a violation. If the Review Committee concludes that a violation has taken place, it may have the following elections:

(1) Reprimand.

(2) Levying a fine in such amount as may be reasonable under the circumstances which shall not exceed the maximum amount permitted by Statute.

n. Fines. Fines levied by the Review Committee pursuant to this Article IX shall be collectible by any means permitted by law.

o. Appeals. In the event either party is aggrieved by the decision or actions of the Review Committee, procedural or final, the aggrieved party may appeal the decision or action within Ten (10) days of the action to the Board of Directors who shall review the matter on the record and render a decision within Thirty (30) days from the receipt of the record of the hearing.

Section 2. Alternative Dispute Resolution; Voluntary Mediation; Mandatory Nonbinding Arbitration. Prior to the institution of court litigation, a party to a dispute shall comply with Florida Statute 718.1255 and applicable rules regarding arbitration, mediation, and dispute resolution.

ARTICLE X Amendments

Section 1. - Bylaws. These Bylaws may be amended from time to time by resolution adopted at any regular or special meeting of the Unit Owners of the condominium called in accordance with the Bylaws at which a quorum is present, such adoption to be by the affirmative vote of Two-thirds ($\frac{2}{3}$) of the total number of votes to which the Unit Owners present and voting shall be entitled, but not less than a majority of the total number of votes authorized. Such amendment shall be duly recorded in compliance with requirements of The Condominium Act. Amendments that would materially affect a mortgagee must, in addition, be approved by Institutional Mortgagees as defined in the Declaration who represent at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by Institutional Mortgagees. Pursuant to Florida Statutes, a change to any of the following would be considered material: A change in the configuration or size of any condominium Unit in any material fashion; a material alteration or modification of the appurtenances to the Unit; or a change in the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus. Approval may be assumed when an Institutional Mortgagee fails to submit a response to any written proposal for an amendment within Thirty (30) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

ARTICLE XI
Mortgagees

Section 1. - Notice to Association. An Owner who encumbers a Unit with a Mortgage shall notify the Association through its Secretary of the name and address of mortgagee, and shall file with the Secretary a copy of such mortgage; and the Association shall maintain such information in a book entitled "Mortgagees of Units".

Section 2. - Notice of Unpaid Assessments. The Association shall at the request of a mortgagee, report any unpaid assessment due from the owner of a Unit upon which such mortgagee holds a mortgage.

ARTICLE XII
Compliance

Section 1. - Conflict with Declaration. In the event these Bylaws in any way conflict with the provisions of the Declaration of Condominium, it is hereby agreed and accepted that the provisions of the Declaration of Condominium will control.

9 The foregoing were adopted as the Bylaws of OCEAN GARDEN ASSOCIATION, INC., on the day of August, 2006.



MARY STEPHENS, Secretary

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