

DECLARATION OF CONDOMINIUM

OF

29769

TRADE WINDS WEST CONDOMINIUM, INC.

a condominium

MADE THIS APRIL 25, 1973 by JAMES K. HOGAN and SALLY L. HOGAN, his wife, called developers, for themselves, their heirs, and assigns.

WHEREIN the Developer makes the following declarations:

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

1.1 Name and Address. The name by which this Condominium is to be identified is TRADE WINDS WEST CONDOMINIUM, INC., a condominium and its address is: 5301, Ocean Terrace, Marathon, Monroe County, Florida.

1.2 The Land. The lands owned by Developer, which by this instrument are submitted to the condominium form of ownership, are the following described lands lying in Monroe County, Florida.

See Exhibit "F" attached hereto.

which lands are called "the land."

2. Definitions. The terms used in this Declaration and in its exhibits shall have the meanings stated in the Condominium Act (711.03 FLA. STAT.) and as follows unless the context otherwise requires:

2.1 Apartment means unit as defined by The Condominium Act.

2.2 Apartment Owner means unit owner as defined by The Condominium Act.

2.3 Association means TRADE WINDS WEST CONDOMINIUM, INC. and its successors.

2.4 Common elements, shall include the tangible personal property required for the maintenance and operation of the condominium, even though owned by the Association, as well, as the items stated in The Condominium Act.

2.5 Common expenses include :

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

b. Expenses of the leased recreational areas and facilities located upon the land subject to the 99 year lease a copy of which is attached as Exhibit "E". Common expenses also include rental on recreation area, taxes, special assessments and insurance for all common elements in the said leased recreational area. Although the recreational area rental is a fixed sum per apartment, to wit: \$29.00 per month for one (1) bedroom and \$32.00 per month for two (2) bedroom apartment (Subject to adjustment as provided for in the lease; Exhibit "E", hereto), it is, nevertheless a "common expense" and due from the Association as a total sum; thus, it differs only from other common expenses by its means of calculation. The term "common expenses" used throughout this Declaration includes such rental, unless otherwise provided.

c. Expenses by provisions of this Declaration and By-Laws.

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

2.6 Condominium means all of the condominium property as a whole when the context so permits, as well as the meaning stated in The Condominium Act.

2.7 Singular, plural, gender. 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.

2.8 Utility service, 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, gas, hot and cold water, heating, refrigeration, airconditioning and garbage and sewage disposal.

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

3.1 Survey. A survey of the land showing the improvements on it is attached as Exhibit "A".

3.2 Plans. The improvements upon the land are constructed substantially in accordance with the floor plan attached hereto as Exhibit "B-1" and "B-2".

3.3 Amendment of Plans.

a. Alteration of apartment plans. Developer reserves the right to change the interior design and arrangement of all units, and to alter the boundaries between units, as long as Developer owns the units so altered. No such change shall increase the number of apartments nor alter the boundaries of the common elements without amendment of this Declaration by approval of the Association, apartment owners and owners of mortgages in the manner elsewhere provided. If Developer shall make any changes in units so authorized, such changes shall be reflected by an amendment of this Declaration. If more than one unit is concerned, the Developer shall apportion between the units the shares in the common elements appurtenant to the units concerned.

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

3.4 Easements are reserved through the condominium property as may be required for utility services in order to serve the condominium adequately; provided, however, such easements

through an apartment shall be only according to the plans and specifications for the apartment building, or as the building is constructed, unless approved in writing by the apartment owner.

3.5 Improvements - general description.

a. Apartment building. The Condominium includes an apartment building consisting of a ground floor. The building contains sixteen (16) Owners' apartments. The Common elements include other service facilities.

b. Other improvements. The condominium includes gardens and landscaping, automobile parking areas and other facilities located substantially as shown upon the plans and which are part of the common elements.

3.6 Apartment boundaries. Each apartment shall include that part of the building containing the apartment that lies within the boundaries of the apartment, which boundaries are as follows:

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

(1) Upper boundary - the horizontal plane of the lower surfaces of the ceiling slab;

(2) Lower boundary - the horizontal plane of the lower surfaces of the floor slab.

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

(1) Exterior building walls - the intersecting vertical planes adjacent to and which include the exterior the outside walls of the apartment building bounding an apartment and fixtures thereon, and when there is attached to the building a balcony, loggia, terrace, canopy, stairway or other portion of the building serving only the apartment being bounded

such boundaries shall be the intersecting vertical planes adjacent to and which include all of such structures and fixtures thereon.

In the case of ground floor apartments, such boundaries shall include the terraces serving such apartments.

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

(i) When walls between apartments are of varying thickness, or about a column or shaft, the plane of the center line of a bounding wall shall be extended to an intersection with the connecting bounding plane without regard to the plane of the center line of an intervening column or shaft.

(ii) When walls of different thickness abut with a flush side so that their center lines do not intersect the plane of the center line of the thinner wall shall be extended into the thicker wall for a distance which is one-half (1/2) the thickness of the thinner wall, and the boundary shall thence run at a right angle to the plane of the center line of the thicker wall.

3.7 Common elements. The common elements include the land and all other parts of the condominium not within the apartments and include but are not limited to the following, inasmuch as to which the Association shall have the powers indicated:

a. Automobile parking areas, storage areas, meter room, laundry, game room, driveways, and landscaped areas.

b. Use, charges. The foregoing and all other common elements shall be available for use by all apartment owners without discrimination. Such use will be without charge, except when specifically authorized by this Declaration, and that the Association may be authorized by its regulations to charge for the exclusive use of facilities from time to time if such exclusive use is made available to all apartment owners.

4. The apartments. There are sixteen apartments located in one building containing two (2) floors. The apartments on the ground floor are numbered from East to West and are numbered 1, 3, 5, 7, 9, 11, 13, and 15 and the apartments on the second floor are numbered from East to West 2, 4, 6, 8, 10, 12, 14, and 16.

4.1 Appurtenances to apartments. The owner of each apartment shall own a share and certain interests in the condominium property, which share and interest are appurtenant to his apartment, including but not limited to the following items that are appurtenant to the several apartments as indicated:

a. Percentage of ownership of common elements.

The undivided share owned by each unit owner in the common elements appurtenant to each unit, the percentage of sharing common expenses and owning common surplus, and the relative voting rights of the owners of units shall be:

<u>Apartment No.</u>	<u>Percentage of ownership, expenses, surplus, voting.</u>
1	6.250%
2	6.250%
3	6.250%
4	6.250%
5	6.250%
6	6.250%
7	6.250%
8	6.250%
9	6.250%
10	6.250%
11	6.250%
12	6.250%
13	6.250%
14	6.250%
15	6.250%
16	6.250%
	<u>100.000%</u>

b. Automobile parking space. The common elements include parking area for automobiles of the apartment owners. Parking areas will be assigned by the Association and subject to the regulations of the Association, which regulations shall provide that the occupants of each apartment shall be entitled to parking for one automobile.

c. Storage areas. The common elements include storage areas numbered one (1) through sixteen (16) inclusive as shown on Exhibit "B-1" and "B-2", and shall be assigned by the Association to the corresponding apartments with the same number and shall be subject to the regulations of the Association.

4.5 Liability for common expenses. Each apartment owner shall be liable for a proportionate share of the common expenses, such share being the same as the undivided share in the common elements appurtenant to his apartment.

5. Maintenance, alteration and improvement. Responsibility for the maintenance of the condominium property, and restrictions upon its alteration and improvement, shall be as follows:

5.1 Apartments.

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

(1) All portions of an apartment, except interior surfaces, contributing to the support of the apartment building, which portions shall include but not be limited to loadbearing columns and loadbearing walls.

(2) All conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services contained in the portions of an apartment maintained by the Association; and all such facilities contained within an apartment that service part or parts of the condominium other than the apartment within which contained; and

(3) All incidental damage caused to an apartment by such work shall be repaired promptly at the expense of the Association.

b. By the apartment owner. The responsibility of the apartment owner shall be as follows:

(1) To maintain, repair and replace at his expense all portions of his apartment except the portions of his apartment to be maintained, repaired and replaced by the

Association. Such shall be done without disturbing the rights of other apartment owners. Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the apartment building.

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

c. Alteration and improvement. Neither an apartment owner nor the Association shall make any alteration in the portions of an apartment or apartment building that are to be maintained by the Association, or remove any portion of such, or make any additions to them, or do anything that would jeopardize the safety or soundness of the apartment building, or impair any easement, without first obtaining approval in writing of owners of all apartments in which such work is to be done and the approval of the Board of Directors of the Association. A copy of plans for all such work prepared by an architect licensed to practice in this state shall be filed with the Association prior to the start of the work. Provided, however, that an apartment owner who has purchased two apartments may elect to combine such apartments with a modified floor plan in accordance with any of the standard alternate floor plans which are attached hereto as Exhibit B upon first obtaining approval of the Association.

5.2 Common elements.

a. By the Association. The maintenance and operation of the common elements shall be the responsibility of the Association and a common expense.

b. Alteration and improvement. After the completion of the improvements included in the common elements contemplated by this Declaration, there shall be no alteration nor further improvement of the real property constituting the common elements without prior approval in writing by the owners of not less than 75% of the common elements except as provided by the By-Laws. Any such alteration or improvement

shall not interfere with the rights of any apartment owners without their consent. The cost of such work shall not be assessed against a bank, life insurance company or savings and loan association that acquires its title as the result of owning a mortgage upon the apartment owner, unless such owner shall approve the alteration, or improvement, and this shall be so whether the title is acquired by deed from the mortgagor or through foreclosure proceedings. The share of any cost not so assessed shall be assessed to the other apartment owners in the shares that their shares in the common elements bear to each other. There shall be no change in the shares and rights of an apartment owner in the common elements altered or further improved, whether or not the apartment owner contributes to the cost of such alteration or improvements.

6. Assessments. The making and collection of assessments against apartment owners for expenses shall be pursuant to the By-Laws and subject to the following provisions:

6.1 Each apartment owner shall be liable for his prorata share of the common expense as set forth in paragraph 4.1 (a) hereof.

6.2 Interest, application of payments. Assessments and installments on such assessments paid on or before ten days after the date when due shall not bear interest, but all sums not paid on or before ten days after the date when due shall bear interest at the rate of ten percent per annum from the date when due until paid. All payments upon account shall be first applied to interest and then to the assessment payment first due.

6.3 Lien for assessments. The lien for unpaid assessments shall also secure reasonable attorneys' fees incurred by the Association incident to the collection of such assessments or enforcement of such lien.

6.4 Rental pending foreclosure. In any foreclosure of a lien for assessments the owner of the apartment subject to the lien shall be required to pay a reasonable rental

for the apartment, and the Association shall be entitled to the appointment of a receiver to collect the same.

→ 7. Association. The operation of the condominium shall be by TRADE WINDS WEST CONDOMINIUM, INC., a corporation not for profit under the laws of Florida, which shall fulfill its functions pursuant to the following provisions:

7.1 Articles of Incorporation. A copy of the Articles of Incorporation of the Association is attached as Exhibit C.

7.2 The By-Laws of the Association shall be the By-Laws of the condominium, a copy of which is attached as Exhibit D.

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

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

→ 7.5 Approval or disapproval of matters. Whenever the decision of an apartment owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such owner of an Association meeting, unless the joinder of record owners is specifically required by this Declaration.

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

8.1 Authority to purchase; named insured. All insurance policies upon the condominium property shall be purchased by the Association. The named insured shall be the Association individually and as agent for the apartment owners, without naming them, and as agent for their mortgagees. Provision shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of apartment owners.

8.2 Coverage.

a.. Casualty. All Buildings and improvements upon the land shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, and all persons property included in the common elements shall be insured for its value, all as determined annually by the Board of Directors of the Association. Such coverage shall afford protection against:

(1) loss or damage by fire and other hazards covered by a standard extended coverage endorsements, and

(2) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land, including but not limited to vandalism and malicious mischief.

b. Public liability in such amounts and with such coverage as shall be required by the Board of Directors of the Association, including but not limited to hired automobile coverages, and with cross liability endorsement to cover liabilities of the apartment owners as a group to an apartment owner.

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

d. Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

8.3 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense.

8.4 Insurance Trustee; shares of proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the apartment owners and their mortgagees as their interest may appear, and shall provide that all proceeds covering property losses shall be paid to TRADE WINDS WEST CONDOMINIUM, INC., as Trustee. The duty of the trustee shall be to receive such proceeds as are paid and hold the proceeds in trust for the purposes elsewhere stated in this instrument and for the benefit of the apartment owners and their mortgagees in the following shares, but which shares need not be set forth on the records of the Trustee:

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

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

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

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

c. Mortgagees. In the event a mortgagee endorsement has been issued as to an apartment, the share of the apartment owner shall be held in trust for the mortgagee and the apartment 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 such proceeds made to the apartment owner and mortgagee pursuant to the provisions of this Declaration.

8.5 Distribution of Proceeds. Proceeds of insurance policies received by the Trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

a. Expense of the trust. All expenses of the Trustee incident to the operation of the trust shall be paid first or provision made for such payment.

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

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

8.6 Association as agent. The Association is irrevocably appointed agent for each apartment owner and for each owner of a mortgage or other lien upon an apartment and for each owner of any other interest in the condominium property to adjust all claims less than \$1,000 arising under Insurance

Policies purchased by the Association and to execute and deliver releases upon the payment of claims. The Association is irrevocably appointed agent for each apartment owner and for each owner of any other interest in the condominium property to adjust all claims in excess of \$1,000 arising under Insurance Policies purchased by the Association. For all such claims in excess of \$1,000, the Association would be authorized to execute and deliver releases and to accept claims for the apartment owners and for the owners of any other interest in the condominium property provided the Association has the consent of all approved mortgagees.

9. Reconstruction or repair after casualty.

9.1 Determination to reconstruct or repair.

If any part of the condominium property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

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

b. Apartment building.

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

(2) Major damage. If the damaged improvement is the apartment building, and if apartments to which more than 50% of the common elements are appurtenant are found by the Board of Directors to be not tenantable, then the damaged property will not be reconstructed or repaired and the condominium will be terminated without agreement as elsewhere provided, unless within sixty (60) days after the casualty the owners of 75%

of the common elements agree in writing to such reconstruction or repair.

9.2 Plans and specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building, 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 apartment building, by all approved mortgagees and by the owners of not less than 75% of the common elements, including the owners of all damaged apartments, which approval shall not be unreasonably withheld.

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

9.4 Estimates of costs. Immediately after the determination is made to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the costs to rebuild or repair.

9.5 Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, assessments shall be made against the apartment owners who own the damaged apartments, and against all apartment owners in the case of damage to common elements, in sufficient amounts to provide funds for the payment of such

costs. Such assessments against apartment owners for damage to apartments shall be in proportion to the cost of reconstruction and repair of their respective apartments. Such assessments on account of damage to common elements shall be in proportion to the owner's share in the common elements. Provided, however, in the event that the insurance proceeds are insufficient to pay the trustee's fees and expenses and to make needed repairs and any owner is unable to pay an assessment to make up such insufficiency, then such owner's mortgagee shall have the option to make up said insufficiency or to require the Association, the insurance trustee and the insurer to pay such mortgagee as its interest may appear from the insurance proceeds.

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 apartment building in useful condition exists upon the land.

10.1 Apartments. Each of the apartments shall be occupied only by a family, its servants and guests, as a residence and for no other purpose. No apartment may be divided or subdivided into a smaller unit nor any portion sold or otherwise transferred without first amending this Declaration to show the changes in the apartments to be affected.

10.2 Common elements. The common elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the apartments.

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 apartment

owner shall permit any use of his apartment or make any use of the common elements that will increase the cost of insurance upon the condominium property.

10.4 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.

10.5 Leasing. After approval by the Association elsewhere required, entire apartments may be rented provided the occupancy is only by the lessee and his family, its servants and guests. No rooms may be rented and no transient tenants may be accommodated. Leases for less than 30 days shall not be allowed.

10.6 Minors above the age of twelve years are permitted to occupy the premises. Such minors shall be closely supervised and care taken to insure that they do not become a nuisance to other residents. Minors under the age of twelve years are entitled to visit and temporarily occupy the premises for non-consecutive periods of ninety (90) days during the summer and winter seasons. For the purposes of this provision, the summer will be defined as that period from May 1 through August 30 of each year, and the winter shall be defined as that period from September 1 through April 30 of each year.

10.7 No pets of any kind shall be kept on the condominium premises, other than on 1st. floor and on leash in common areas.

10.8 No signs, advertisements or notices of any type and no exterior antennas or aerials shall be erected upon the common elements. Provided, however, the Board of Directors in their regulations may vary this requirement.

10.9 Regulations. Reasonable regulations concerning the use of the condominium property may be made and amended

from time to time by the Association in the manner provided by its Articles of Incorporation and By-Laws. Copies of such regulations and amendments shall be furnished by the Association to all apartment owners and residents of the condominium upon request.

10.10 Proviso. Provided, however, that until Developer has completed all of the contemplated improvements and closed the sales of all of the apartments of the condominium neither the apartment owners nor the Association, nor the use of the condominium property, shall interfere with the completion of the contemplated improvements and the sale of the apartments. Developer may make such use of the unsold units and common areas as may facilitate such completion and sale, including but not limited to maintenance of a sales office, the showing of the property, and the display of signs. All approved mortgagees holding title to an apartment shall be similarly exempted from all the foregoing provisions entitled "Use Restrictions."

11. Maintenance of Community interest.

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

11.1 Transfers subject to approval.

a. Sale. No apartment owner may dispose of a TRADE WINDS WEST apartment or any interest in a TRADE WINDS WEST apartment by sale without approval of the Association except to a TRADE WINDS WEST apartment owner.

b. Lease. No apartment owner may dispose of a TRADE WINDS WEST apartment or any interest in a TRADE WINDS WEST apartment by lease without approval of the Association except to a TRADE WINDS WEST apartment owner. Only one such lease, during any calendar year shall be allowed. The maximum period of time on any lease shall be one year and the minimum

period shall be 30 days. Options to renew one-year leases will be allowed, provided they are subject to the lessee being reviewed by the Board of Directors and approved again as a member, prior to the exercise of the option to renew. No subleases shall be allowed.

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

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

e. Other transfers. If any apartment owner shall acquire his title by any manner not considered in the foregoing subsections, the continuance of his ownership of his apartment 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 or ownership of apartments shall be obtained in the following manner:

a. Notice to Association.

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

(2) Lease. An apartment owner intending to make a bona fide lease of his apartment or any interest in it

shall give to the Association notice of such 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.

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

(4) Failure to give notice.

If the above required notice to the Association is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of an apartment, 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 had received the required notice on the date of such disapproval.

b. Certificate of approval.

(1) Sale. If the proposed transaction is a sale, then within thirty (30) days after receipt of such notice and information the 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, which shall be forwarded to the buyer and a copy to the seller. An intended assignment or other transfer of a cooperative owners agreement shall be considered a sale within the meaning of this subsection.

(2) Lease. If the proposed transaction is a lease, then within thirty (30) days after receipt of such 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, and delivered to the lessee and

lessor.

(3) Gift, devise or inheritance; other transfers. If the apartment owner giving notice has acquired his title by gift, devise or inheritance, or in any other manner, then within thirty (30) days after receipt of such notice and information the Association must either approve or disapprove the continuance of the apartment owner's ownership of his apartment. If approved, the approval shall be stated in a certificate executed by the president and secretary of the Association and delivered to the apartment owner.

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

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

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

(1) At the option of the purchaser to be stated in the agreement, the price to be paid shall be that stated in the disapproved contract to sell 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, one of whom

shall be appointed by the Association and the other of whom shall be appointed by the apartment owner, who shall base their determination upon an average of their approvals of the apartment; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

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

(3) 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 such is by arbitration, whichever is the later.

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

(5) If the Association shall fail to provide a purchaser upon the demand of the apartment owner in the manner provided, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval the proposed transaction shall be deemed to have been approved and the Association shall furnish a certificate of approval as elsewhere provided, which shall be recorded in the Public Records of Monroe County, Florida, at the expense of the purchaser.

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

c. Gifts, devise or inheritance; other transfers. If the apartment owner giving notice has acquired his title by gift, devise or inheritance, or in any other manner, then within thirty (30) days after receipt from the apartment

owner of the notice and information required to be furnished, the Association shall deliver or mail by certified mail to the apartment owner an agreement to purchase the apartment concerned by a purchaser approved by the Association who will purchase and to whom the apartment owner must sell the apartment upon the following terms:

(1) The sale price shall be the fair market value determined by agreement between the seller and purchaser within thirty (30) days from the delivery or mailing of such 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, one of whom shall be appointed by the Association and the other of whom shall be appointed by the apartment owner, who shall base their determination upon an average of their appraisals of the apartment; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

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

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

(4) A certificate of the Association shall be executed by its president and secretary approving the purchase.

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

11.4. Mortgage. No apartment owner may mortgage his apartment nor any interest in it without the approval of the Association except to a bank, life insurance company, or a savings and loan association, or to a vendor to secure a portion or all of the purchase price. The approval of any other mortgage may be upon conditions determined by the Association or may be arbitrarily withheld.

11.5. Exceptions. The foregoing provisions of this section entitled "Maintenance of Community Interests" shall not apply to a transfer to or purchase by a bank, life insurance company or savings and loan association that acquires its title as the result of owning a mortgage upon the apartment concerned, and this shall be so whether the title is acquired by deed from the mortgagor, his successors or assigns, or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by a bank, life insurance company or savings and loan association that so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires the title to an apartment at a duly advertised public sale with open bidding provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale or tax sale. A transferee or purchaser acquiring title under one of the excepted transactions set forth above shall not be a member of the Association nor entitled to vote in the Association.

11.6. Unauthorized transactions. Any sale, mortgage or lease not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

12. Compliance and default. Each apartment owner shall be governed by and shall comply with the terms of the Declaration of Condominium, Articles of Incorporation and By-Laws and the Regulations adopted pursuant to those documents, and all of such as they may be amended from time to time. Failure of an apartment owner to comply with such documents and regulations shall

entitle the Association or other apartment owners to the following relief in addition to the remedies provided by the Condominium Act:

12.1. Negligence. An apartment owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents, or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. An apartment owner shall pay the Association the amount of any increase in its insurance premiums occasioned by use, misuse, occupancy or abandonment of an apartment or its appurtenances, or of the common elements, by the apartment owner.

12.2. Costs and attorneys' fees. In any proceeding arising because of an alleged failure of an apartment owner or the Association to comply with the terms of the Declaration, Articles of Incorporation of the Association, the By-Laws, or the Regulations adopted pursuant to them, and the documents and Regulations as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the Court.

12.3. No waiver of rights. The failure of the Association or any apartment owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation of the Association, the By-Laws or the Regulations shall not constitute a waiver of the right to do so thereafter.

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

a. not less than 75% of the entire membership of the board of directors and by not less than 75% of the votes of the entire membership of the Association and by all approved mortgagees; or

b. not less than 80% of the votes of the entire membership of the Association and by all approved mortgagees; or

c. until the first election of directors, only by all of the directors and by all approved mortgagees, provided the amendment does not increase the number of apartments nor alter the boundaries of the common elements.

13.3. Proviso. Provided, however, that no amendment shall discriminate against any apartment owner nor against any apartment or class or group of apartments, unless the apartment owners so affected shall consent; and no amendment shall change any apartment nor the share in the common elements appurtenant to it, nor increase the owner's share of the common expenses, unless the record owner of the apartment concerned and all record owners of mortgages on such apartment shall join in the execution of the amendment. Neither shall an amendment make any change in the section entitled "Insurance" nor in the section entitled "Reconstruction or repair after casualty" unless the record owners of all mortgages upon the condominium shall join in the execution of the amendment.

13.4. Execution and recording. A copy of each amendment shall be attached 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 deed. The amendment shall be effective when such certificate and copy of the amendment is recorded in the Public Records of Monroe County, Florida.

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

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

14.2. Agreement. The condominium may be terminated at any time by the approval in writing of all record owners of apartments and all record owners of mortgages on apartments. If the proposed termination is submitted to a meeting of the members of the Association, the notice of the meeting giving notice of the proposed termination, and if the approval of the owners of not less than 75% of the common elements, and of the record owners of all mortgages upon the apartments, are obtained in writing not later than thirty (30) days from the date of such meeting, then the approving owners shall have an option to buy all of the apartments of the other owners for the period ending on the 60th day from the date of such meeting. Such approvals shall be irrevocable until the expiration of the option, and if the option is exercised, the approvals shall be irrevocable. The option shall be upon the following terms:

a. Exercise of Option. The option shall be exercised by delivery or mailing by certified mail to each of the record owners of the apartments to be purchased an agreement to purchase signed by the record owners of apartments who will participate in the purchase. Such agreement shall indicate which apartments will be purchased by each participating owner and shall require the purchase of all apartments owned by owners not approving the termination, but the agreement shall effect a separate contract between each seller and his purchaser.

b. Price. The sale price for each apartment shall be the fair market value determined by agreement between the seller and purchaser within thirty (30) days from the delivery or mailing of such agreement, and in the absence of agreement as to price it 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, one of whom shall be appointed by the seller and one of whom shall be appointed by the purchaser, who shall base their determination upon an average of their appraisals of the apartment; and a judgment of specific performance of the sale upon the award rendered by the arbitrators expense of the arbitration shall be paid by the purchaser.

c. Payment. The purchase price shall be paid in cash.

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

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 Monroe County, Florida.

14.4. Shares of owners after termination. After termination of the condominium the apartment owners shall own the condominium property and all assets of the Association as tenants in common in undivided shares that shall be the same as the undivided shares in the common elements appurtenant to the owners' apartments prior to the termination.

14.5. Amendment. This section concerning termination cannot be amended without consent of all apartment owners and of all record owners of mortgages upon the apartments.

15. 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 and the Articles of Incorporation, By-Laws and Regulations of the Association shall not affect the validity of the remaining portions.

16. Anything contained in this Declaration of Condominium to the contrary notwithstanding, JAMES K. HOGAN and SALLY L. HOGAN, his wife, shall have the right to sell apartments owned by them without approval of the Association. JAMES K. HOGAN and SALLY L. HOGAN, his wife, reserve the right until all of the apartments presently owned by them are sold to execute on behalf of the Association Certificates of Approval approving persons for membership in the Association. Provided, however, JAMES K. HOGAN and SALLY L. HOGAN, his wife, shall exercise this right and use due care and diligence in approving persons for membership in the Association.

IN WITNESS WHEREOF, the Developer has executed this Declaration the day and year first above written by its proper officers thereunto duly authorized.

WITNESSES:

Edward V. Bernert James K. Hogan (SEAL)
 JAMES K. HOGAN
_____ Sally L. Hogan (SEAL)
 SALLY L. HOGAN

STATE OF OHIO
 COUNTY OF HAMILTON

I HEREBY CERTIFY that on this day before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared JAMES K. HOGAN and SALLY L. HOGAN, his wife, well known to me to be the persons described in and who executed the foregoing Declaration of Condominium and acknowledged before me that they executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 25th day of April, A.D., 1973.

My Commission Expires: _____
Edward V. Bernert
 Notary Public
 EDWARD V. BERNERT
 Notary Public, Hamilton County, Ohio
 My Commission Expires Jan. 31, 1977