3224429

RESTATED AND AMENDED
DECLARATION OF CONDOMINIUM
OF
THE VERANDAS OF CROSS CREEK CONDOMINIUM

1. RECITAL -This Condominium was created by a Declaration recorded November 16, 1987. That Declaration is recorded in Lee County, Florida Public Records in O.R. Book 1953[1] at Page 2513, and there have been subsequent amendments to that Declaration.

The submission of the land to the condominium form of ownership by that document is, and will remain, effective. It is the desire of the unit owners, however, to operate with modernized documents free of internal conflicts and obsolete references to the developer, hence this Restated and Amended Declaration.

2. THE VERANDAS *OF CROSS* CREEK, A CONDOMINIUM -PLAN *OF* DEVELOPMENT. There are thirty-four (34) single-family residential units and associated improvements designated as THE VERANDAS OF CROSS CREEK, A CONDOMINIUM. The units are restricted to residential use. Attached hereto is the site plan which was recorded in O.R. Book 1953, Page 2536, Public Records of Lee County, Florida, as Exhibit "A". No time share units shall be allowed.

APPORTIONMENT OF COMMON EXPENSES AND COMMON SURPLUS AND OWNERSHIP OF COMMON ELEMENTS - The manner in which the apportionment of common expenses and common surplus and the ownership of common elements has been determined is by utilizing a fraction, the numerator of which is one (1) and the denominator of which is the number of all units submitted to condominium ownership. Therefore, each unit will own a 1/34th interest in the common expenses, common surplus and common elements.

3. NAME - ASSOCIATION - The name of the condominium association is THE VERANDAS OF CROSS CREEK CONDOMINIUM ASSOCIATION, INC. This Association is incorporated as a non-profit Florida corporation.

4. DEFINITIONS - The terms used herein shall have the meanings stated in the Condominium Act (Florida Statutes, Chapter 718) as amended from time to time, and as follows unless the context otherwise requires:

A. DEVELOPER - means U.S. HOME CORPORATION, a Delaware corporation authorized to do business in the State of Florida.

B. INSTITUTIONAL MORTGAGEE - means the owner and holder of a mortgage encumbering a condominium unit, which owner and holder of said mortgage is either a bank, or life insurance company, or a federal or state savings and loan association, or a mortgage or real estate investment trust, or a pension or profit sharing plan, or a credit union, or a Massachusetts business trust, or an agency of the United States-government, or an insurance company, mortgage company, or the Federal National Mortgage Association, or a lender generally recognized in the community as an institutional lender for the Developer or assignees, nominees, or designees of the Developer.

ERIFIED - CHARLIE GR
BY, J. TURNER, D.C.
D

C. UNIT - A part of the condominium property which is subject to exclusive ownership.

D. UNIT OWNER - The owner of a Condominium parcel.

E. UNIT NUMBER - The letter, number, or combination thereof which is designated upon the surveyor plans, and which is used as the identification of a unit.

F. ASSESSMENT - mean-s a share of the funds required for the payment of common expenses which from time to time is assessed against the unit owner.

G. ASSOCIATION - The corporation is responsible for the operation of the condominium. The Articles of Incorporation for the Association are recorded in O.R. Book 1953, Page 2553, Public Records of Lee County, Florida, which is attached as Exhibit "B" hereto. The Amended and Restated Bylaws of the Association are attached as Exhibit "C".

H. BOARD OF ADMINISTRATION - means the Board of Directors responsible for administration of the association. All references to "Directors or to Board" shall be deemed to mean to the Board of Directors.

I. COMMON ELEMENTS - The portions of the condominium property not included in the units as defined in Florida Statute 718.108, including:

(.1) The land.

(.2) All parts of the improvements which are not included within the units.

(.3) Easements.

(.4) Installations for the furnishing of services to more than one unit or to the common elements, such as electricity, gas, water and sewer.

(.5) Personal property - tangible personal property may be purchased, sold, leased, replaced and otherwise dealt with by the association as an entity, through its Board of Directors, on behalf of the members of the association, without the necessity of any joinder by the members.

J. LIMITED COMMON ELEMENTS - means and includes those common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

K. COMMON EXPENSES - All expenses and assessments properly incurred by the association for the condominium.

L. COMMON SURPLUS - means the excess of all receipts of the association including but not limited to assessments, rents, profits and revenues on account of the common elements, over the amount of the common expenses.

M. PERSON - means an individual, corporation, trustee, or other legal entity capable of holding title to real property.

N. SINGULAR, PLURAL, GENDER - Whenever the context so permits, the use of the plural shall include the singular, the singular the plural, and use of any gender shall be deemed to include all genders.

0. CONDOMINIUM DOCUMENTS - means this Amended and Restated Declaration and the previous Condominium Documents which are not being amended and which have been previously recorded in the Public Records of Lee County, Florida, and the Exhibits, which set forth the nature of the property rights in the condominium and the covenants running with the land which govern these rights and the Declaration of Covenants, Conditions and Restrictions for the Cross Creek of Fort Myers Community Association and all exhibits thereto. All the condominium documents shall be subject to the provisions of the Declaration of Covenants, Conditions and Restrictions for the Cross Creek of Fort Myers Community Association.

P. CONDOMINIUM PARCEL - means a unit together with the undivided share in the common elements which is appurtenant to the unit.

Q. CONDOMINIUM PROPERTY - means the lands and personal property subject to condominium ownership, whether or not contiguous and all improvements thereon and all easements and rights appurtenant thereto.

R. OPERATION - means and includes the administration and management of the condominium property.

S. MASTER ASSOCIATION - CROSS CREEK OF FORT MYERS COMMUNITY ASSOCIATION, INC. is a non-profit corporation and not a condominium association which shall be responsible for the maintenance and preservation of values of the common properties as described in Exhibit 2 of said Community Association. The Declaration of Covenants, Conditions and Restrictions for the Cross Creek of Fort Myers Master Association and all exhibits thereto are recorded in Official Records Book 1760 at Page 2417 through Page 2515 inclusive of the Public Records of Lee County, Florida; and the amendments thereto, all of the Public Records of Lee county, Florida.

5. UNITS SHALL BE CONSTITUTED AS FOLLOWS:

A. REAL PROPERTY - Each unit, together with space within it, and together with all appurtenances thereto, for all purposes, constitute a separate parcel of real property, which may be owned in fee simple and which may be conveyed, transferred and encumbered in the same manner as any other parcel of real property, independently of all other parts of the property, subject only to the provisions of this declaration and applicable laws.

B. BOUNDARIES - Each unit shall be bounded as to both horizontal and vertical boundaries as below defined, whether the same exist now or are created by construction, settlement or movement of the building, or permissible repairs, reconstruction or alterations. Said boundaries are intended to be as follows and shall be determined in the following manner:

(.1) HORIZONTAL BOUNDARIES: The upper and lower boundaries of the units shall be:

(i) UPPER BOUNDARY - The underside of the finished undecorated ceilings of the unit, extended to meet the vertical boundaries.

(ii) LOWER BOUNDARY - The upperside of the finished undecorated surface of the lower (ground) floor of the unit, extended to meet the vertical boundaries.

(.2) VERTICAL BOUNDARIES: The vertical boundaries shall be the interior surfaces of the perimeter walls of the unit as shown on the surveyor plans and the interior surfaces of the unit's windows and doors that abut the exterior of the building or common areas.

C. EXCLUSIVE USE - Each unit owner shall have the exclusive use of his unit.

D. APPURTENANCES = The ownership of each unit shall include, and there shall pass as appurtenances thereto whether or not separately described, all of the right, title and interest of a unit owner in the condominium property which shall include but not be limited to:

(.1) COMMON ELEMENTS -

(i) an undivided share of the common elements as defined in Florida Statute 718.108, as amended from time to time.

(.2) LIMITED COMMON ELEMENTS - The exclusive use (or use in common with one or more other designated units) of the following limited common elements that may exist:

OR2309 PG099

(i) Storage locker or other facility (enclosed, screened, fenced or open).
(ii) A garage space shall be assigned to each unit.
(.3) ASSOCIATION MEMBERSHIP and an undivided share in the common surplus and property, real and personal, held by the association.
E. EASEMENT TO AIR SPACE - An exclusive easement for the use of the air space occupied by the unit as it exists at any particular time and as the unit may be lawfully altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is vacated from time to time-
F. EASEMENTS - The following non-exclusive easements from the Developer to each unit owner, to the association and its employees, agents and hired contractors, to utility companies, unit owners' families in residence, guests, invitees and to governmental and emergency services are hereby granted and created:
(.1) INGRESS AND EGRESS - Easements over the common areas for ingress and egress.
(.2) MAINTENANCE, REPAIR AND REPLACEMENT - Easements through the units and common elements for maintenance, repair and replacements. Such access is to be only during reasonable hours except that access may be had at any time in case of emergency.
(.3)UTILITIES - Easements through the common areas and units for conduits, ducts, _plumbing, wiring and other facilities for the furnishing of services to other units and the common elements.
(.4) Emergency, regulatory, law enforcement and other public services in the lawful performance of their duties upon the condominium property.
G. MAINTENANCE - The responsibility for the maintenance of a unit shall be as follows:
(.1) BY THE ASSOCIATION - The association shall maintain, repair, and replace at the association's expenses:
(i) Such portions of the unit as contribute to the support of the building including but not limited to the perimeter walls, columns, roof, floors and wiring, piping, ductwork and other mechanical or electrical or other installations or equipment serving the common areas or other
(ii) Provided that if the maintenance and repair and replacement of any of the above shall be made necessary because of the negligence, act or omission of a unit owner, or persons hired or engaged by the unit owner in and about the premises, or owner's agents, his family, lessees, invitees and guests, in that event the work shall be done by the association at the expense of the unit owner; and the cost shall be secured as an assessment.
(iii) All incidental damage caused to a unit by work done or ordered by the association shall be promptly repaired by and at the expense of the association.
(.2) BY THE UNIT OWNER - The responsibility of the unit owner shall be as follows:
(i) To maintain, repair and replace at his expense, all portions of the unit except the portions to be maintained, repaired and replaced by the association. The unit owner's responsibility specifically includes windows, window and balcony glass, doors, screens and associated hardware, appliances, fixtures, switches, fan motors, compressors, wiring, piping and ductwork serving only the particular unit..
(ii) Not to paint or otherwise decorate or change the appearance of any portion of the building not within the interior walls of the apartment or which is visible from the,

exterior, unless the written consent of the association is obtained in advance.

H. ALTERATION IMPROVEMENT - No owner shall make any alterations in the portions of the improvements which are to be maintained by the association or remove any portion or make any additions thereto, or do any work which would jeopardize the safety or soundness of the building, or impair any easements.

I. COMMON ELEMENTS

(.1) The common elements shall be owned by the unit owners in such undivided shares as are set forth in Exhibit D .

(.2) No action for partition of the common elements

(.3) The maintenance and operation of the common elements shall be the responsibility of the association which shall not, however, prohibit management contracts.

(.4) Each unit owner and the association shall be entitled to use the common elements in accordance with the purposes for which they are intended, but no such use shall' hinder or encroach upon the lawful rights of owners of other units.

(.5) Enlargement or material alteration of or substantial additions to the common elements may be effectuated only by amendment to the declaration.

6. FISCAL MANAGEMENT - The fiscal management of the condominium including budget, fiscal *year,* assessments, lien for and collection of assessments, and accounts shall be as set forth in the Amended and Restated By-Laws which are attached as .Exhibit "C".

7. ASSOCIATION - The administration of the condominium by the Board of Directors and its powers and duties shall be as set forth in the Amended and Restated By-Laws which is attached as Exhibit "C".

8. INSURANCE - The insurance which shall be carried upon the property shall be governed by the following provisions:

A. AUTHORITY TO PURCHASE - All insurance policies (except as hereinafter allowed) shall be purchased by the association, for itself and as agent for the owners and their mortgagees as their interests may appear.

B. UNIT OWNERS - Each unit owner may obtain insurance at his own expense, affording coverage upon his personal property and for his personal liability, for owner or mortgagee title insurance, and as may be required by law.

C. COVERAGE:

(.1) CASUALTY - The building and all other insurable improvements upon the land and all personal property owned by the association (but excluding personal property, additions and/or alterations installed by the owners) shall be insured in an amount equal *to* the maximum insurable replacement value thereof (exclusive of excavation and foundations) as determined by the insurance company affording such coverage. Such coverage shall afford protection against:

(i) LOSS OR DAMAGE BY FIRE, WINDSTORM and other hazards covered by the standard extended coverage endorsement;

(ii) SUCH OTHER RISKS as from time to time customarily shall be covered with respect to buildings similar in construction, location and use as the buildings, including but not limited to flood insurance, vandalism and malicious mischief, if available.

(.2) PUBLIC LIABILITY AND PROPERTY DAMAGE in such amounts and in such forms as shall be required by the

OR2309 PG0999

association, but not less than $1,000,000.00, including but not limited to legal liability, hired automobile, non-owned automobile, and off-premises employee coverages;

(.3) WORKMAN'S COMPENSATION AND UNEMPLOYMENT COMPENSATION to meet the requirement of law.

D. PREMIUMS - Premiums upon insurance policies purchased by the association shall be paid by the association and charged as common expenses.

E. ALL INSURANCE POLICIES PURCHASED by the association shall be for the benefit of the association and the unit owners and their mortgagees as their respective interests may appear and shall provide that all proceeds payable as a result of casualty losses shall be paid to any bank in Florida with trust powers as may be approved by the association. Such bank is herein referred to as the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums nor for the renewal of the policies, nor for the sufficiency of coverage, nor for the form or contents of the policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold and disburse them as provided in Paragraph 9, next following.

9. RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE: If any part of the common elements or units shall be damaged or destroyed by casualty, the same shall be repaired or replaced unless such damage rendered seventy-five percent (75%) or more of the units untenantable, and seventy-five percent (75%) of the owners at a meeting called and held within sixty (60) days of the casualty or thirty (30) days after the insurance claim is adjusted {whichever comes first), vote against such repair or replacement, in which event the proceeds shall be distributed to the unit owners and their mortgagees, as their interests may appear, and the condominium shall be terminated as provided in Paragraph 14 following.

(.1) ANY SUCH RECONSTRUCTION OR REPAIR shall be substantially in accordance with the original plans and specifications.

(.2) CERTIFICATE - The Insurance Trustee may rely upon a certificate of the association certifying as to whether or not the damaged property is to be reconstructed or repaired. The association, upon request of the Insurance Trustee, shall deliver such certificate as soon as practical.

(.3) ESTIMATE OF COSTS - Immediately after a casualty causing damage to property for *which* the association has the responsibility of maintenance and repair, the association shall obtain reliable and detailed estimates of the, cost to place the damaged property insofar as reasonably possible in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires.

(.4) ASSESSMENTS - If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the association (including the aforesaid fees and premium, if any) assessments shall be made against the unit owners in sufficient amounts to provide funds to pay the estimated costs. If at any time during reconstruction and repair, such funds are insufficient, special assessment shall be made against the unit owners in sufficient amounts to provide funds for the payment of such costs.

(.5) CONSTRUCTION FUNDS - The funds for payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the association from assessments against unit owners, shall be disbursed in payment of such costs of in the following manner:

(i) ASSOCIATION - Said Trustee shall make such payments upon the written request of the association, accompanied by a certificate signed by an officer of the association, and by the architect or General Contractor in charge of the work, who shall be selected by the association, setting forth that the sum then requested either has been paid by the association or is justly due to contractors, subcontractors, materialmen, architects, or other person who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials and several amounts so paid, or now due and that the cost as estimated by the person signing such certificate, does not exceed the remainder of the construction funds after the payment of the sum so disbursed.

(ii) SURPLUS - It shall be presumed that the disbursed in payment of costs of reconstruction and be from insurance proceeds; and, if there is a over in a construction fund after payment of all reconstruction and repair for which the fund is such balance shall be distributed jointly to the

(.6) INSURANCE ADJUSTMENTS - Each unit owner shall be deemed to have delegated to the Board of Directors his right to adjust with insurance companies all losses under policies purchased by the Association.

10. USE RESTRICTIONS - The use of the property of the condominium shall be in accordance with the Amended Rules and Regulations attached as Exhibit E, the restrictions as set forth in the Declaration of Covenants, Conditions and Restrictions for the Cross Creek of Fort Myers Community Association and all exhibits thereto and the following provisions:

A LAWFUL USE - All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirement of governmental bodies which require maintenance, modification or repair upon condominium property shall be the same as the responsibility for the repair and maintenance of the property concerned as expressed earlier in this Declaration.

B. INTERPRETATION - In interpreting deeds, mortgages, and plans, the existing physical boundaries of the unit shall be conclusively presumed to be its boundaries regardless of settling or lateral movement of the buildings and regardless of minor variances between boundaries shown on the plans or in the deed and those of the buildings.

C. REGULATIONS - Reasonable regulations concerning the use of the condominium property may be made and amended from time to time by a majority vote of the Board of Directors. Copies of such regulations and amendments thereto shall be posted conspicuously and shall be furnished by the association to all unit owners. No regulation may discriminate against any group or class of users. No new or amended rule or regulation may be enforced prior to approval by the Board of Directors.

11. A. LIENS -

(.1) PROTECTION OF PROPERTY - All liens against a unit other than for permitted mortgages, taxes or special assessments, will be satisfied or otherwise removed within thirty (30) days from the date the lien attaches. All taxes and special assessments upon a unit shall be paid before becoming delinquent.

(.2) NOTICE OF LIEN - An owner shall give notice to the association of every lien upon his unit other than for permitted mortgages, taxes and special assessments within seven (7) business days after the attaching of the lien.
(.3) NOTICE OF SUIT - An owner shall give notice to the association of every suit or other proceedings which may affect the title to his unit, such notice to be given within seven (7) business days after the owner receives knowledge thereof.
(.4) FAILURE TO COMPLY - with this section concerning liens will not affect the validity of any judicial sale.
B. JUDICIAL SALES - No judicial sale of a unit nor any interest therein shall be valid unless the sale is a public sale with open bidding.
12. COMPLIANCE AND DEFAULT - Each owner and the association shall be governed by and shall comply with the terms of the condominium documents as they may be amended from time to time. A Failure to comply shall be grounds for relief, which relief may include but shall not be limited to an action to recover sums due for damages or injunctive relief or both, and which actions may be maintained by the association or by an aggrieved owner.
B. In any such proceeding the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney fees as may be awarded by the Court.
C. In the event that the grievance is that of an owner or owners against the Board of Directors or a member thereof, prior to the institution of litigation, written notice in detail of the grievance shall be given to the Board of Directors, and they shall be allowed a period of twenty (20) days in which to cure or correct. The parties may also submit the matter to arbitration as may' be allowed by Chapter 718, the Florida Condominium Act, before the institution of legal actions.
D. NO WAIVER OF RIGHTS - The failure of the Association or any owner to enforce any covenant, restriction or other provision of the condominium documents shall not constitute a waiver of the right to do so thereafter as to later infractions.
13. AMENDMENTS - Amendments to any of the condominium documents shall be in accordance with the following:
A. An amendment may be proposed either by the Board of Directors or by any owner and may be considered at any meeting of the owners, regular or special, of which due notice has been given according to the By-Laws, which notice includes notice of the substance of the proposed amendment. Passage shall be evidenced by a certificate executed with the formalities of a deed signed by the President or Vice-President and Secretary of the association that it has been enacted by the affirmative vote of the required percentage of unit owners (which vote may be evidenced by written approval of owners not present and the separate written joinder of mortgagees where required) shall include the recording data identifying the Declaration and which shall become effective when recorded according to law.
B. CORRECTORY AMENDMENT - Whenever it shall appear that there is a defect, error or omission in any of the condominium documents amendment of which will not materially adversely affect the property rights of unit owners, a fifty-one percent (51%) vote of the owners shall be the required percentage, or the procedure set forth in Florida Statute 718.110(5) may be used.
C. REGULAR AMENDMENTS - An amendment which does not change the configuration or size of any condominium unit in any material fashion, materially alter or modify the appurtenances to

such unit, change the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus or materially adversely affects the property rights of owners may be enacted by a majority vote.

D. EXTRAORDINARY AMENDMENTS - An amendment which will have the effect of doing any of the things mentioned in paragraph C. above shall require the affirmative vote of all the record owners of the affected units and all record owners of liens thereon and the affirmative vote of the owners of all other units. This section shall be deemed to include enlargement of, material alternation of or substantial additions to the common elements only if the same will have a material adverse effect on the owner's property rights; which shall otherwise be treated as regular amendments. Any vote changing the percentage of ownership of the common elements or sharing the common elements shall be conducted by secret ballot.

14. TERMINATION - The condominium shall be terminated if at all, in the following manner:

A. By the agreement of eighty percent (80%) of the owners which agreement shall be evidenced by an instrument or instruments executed *in* the manner required for conveyance of land. The termination shall become effective when such agreement has been recorded according to law.

B. SHARE OF UNIT OWNERS AFTER TERMINATION - After termination of the condominium, the owners shall own the property as tenants in common in undivided shares and the holders of mortgages and liens against the unit or units formerly owned by such owners shall have mortgages and liens upon the respective undivided shares of the owners. Such undivided shares of the owners shall be as set forth in Exhibit D which was originally recorded in O.R. Book 1953, Page 2545r Public Records of Lee County, Florida. All funds held by the association except for the reasonably necessary expenses of winding up shall be disbursed to the unit owners in the shares set forth **in said** Exhibit D. The costs incurred by the Association in connection with a termination shall be a common expense.

C. FOLLOWING TERMINATION - The property may be partitioned and sold upon the application of any owner. Provided however, that if the Board of Directors following a termination, by unanimous vote, determines to accept an offer for the sale of the property as a whole, each owner shall be bound to execute such deeds and other documents. reasonably required to effect such sale at such times and in such forms as the Board of Director directs. In such event, any action for partition or other division of the property shall be held in abeyance pending such sale, and upon the consummation thereof, shall be discontinued by all parties thereto.

D. THE MEMBERS OF THE LAST BOARD OF DIRECTORS shall continue to have such powers as in this Declaration are granted, notwithstanding the fact that the association itself may be dissolved upon a termination.

15. MORTGAGEE PROVISIONS.

A. In any foreclosure action, the lien of the Association shall be subordinate and inferior to any mortgage lien of record encumbering such unit except as provided by law as it is amended from time to time.

B. If a first mortgage acquires title to a unit through a foreclosure action or by a deed in lieu of foreclosure, that mortgagee may generally acquire the unit free of the Association's lien for unpaid assessments except as provided by law as it is amended from time to time. Unpaid assessments then shall become a common expense of the Association unless the law

OR2309 PG100

provides the first mortgagee is responsible for payment of unpaid assessments secured by a Claim of Lien.

C. In lieu of foreclosing its lien or in the event of a foreclosure by a mortgagee by deed in lieu of foreclosure to a mortgagee, the Association may bring suit against the defaulting unit owner to recover a money judgment for any sums, charges or assessments required to be paid to the Association by the unit owner without waiving its lien securing payment. The defaulting unit owner shall be required to pay all costs of collection including the Association attorneys' fees.

D. No amendment to this Declaration shall be effective to change or lessen the rights of any institutional mortgagee, unless provided by law as it is amended from time to time. Institutional mortgagee as herein defined shall include any bank, savings and loan association, or recognized lending institution.

E. Where the mortgagee of the first mortgage of record obtains title to a unit by foreclosure or be deed in lieu of foreclosure, such mortgagee and its successors and assigns shall not be liable for such unit's assessments or share of the common expenses, except as provided by law.

16. ENFORCEMENT OF ASSESSMENT LIENS - Liens for assessments may be foreclosed by suit brought in the name of the association in like manner as a foreclosure of mortgage on real property. During his occupancy, in the discretion of the court, the foreclosed owner shall be required to pay a reasonable rental and the association shall be entitled to the appointment of a receiver to collect the same, and the association shall have all the powers provided in Florida Statute 718.116, including specifically interest at the prime rate plus two points per annum, and all costs incident to the collection and the proceedings, including reasonable attorneys' fees for enforcement of such lien, with our without suit.

17. MEMBERS - The qualification of members, the manner of their admission and voting by members shall be as follows:

A. ALL OWNERS OF UNITS in the condominium shall be members of the association, and no other persons or entities shall be entitled to membership.

B. MEMBERSHIP IN THE ASSOCIATION shall be established by the recording in the Public Records of Lee County, Florida, a deed or other instrument establishing a change of record title to a unit in the condominium and delivery to the association of a copy of such instrument, the new owner thereby becoming a member of the association. The membership of the prior owner shall be thereby terminated. Provided, however, that the change of ownership and occupancy of the new owner must have been in compliance with this declaration and the association need not recognize membership or ownership in any person until its, requirements have been complied with.

18. INDEMNIFICATION - Every Director of the association shall be indemnified by. the association against all expenses and liabilities, including counsel fees, reasonably incurred or imposed upon him in connection with any proceedings to which he may be a party, or in which he may become involved by reason of his being or having been a Director of the association, or any settlement thereof, whether or not he is a director at the time such expenses are incurred, except in cases wherein the Director at the time such expenses are incurred, except in cases wherein the Director is adjudged guilty of nonfeasance, misfeasance in the performance of his duties, or shall have breached his fiduciary duty to the members of the association. Provided, however, that the association shall not be liable for payment of a

voluntary settlement unless it is first approved by the Board of Directors.

19. APPORTIONMENT OF COMMON EXPENSES AND COMMON SURPLUS AND OWNERSHIP OF COMMON ELEMENTS - The manner in which the apportionment of common expenses and common surplus and the ownership of common elements has been determined is by utilizing a fraction, the numerator of which is one (1) and the denominator of which is the number of all units submitted to condominium ownership. The Exhibit D to the original Declaration recorded in O.R. Book 1953, Page 2545, Public Records of Lee County, Florida sets forth the fraction of ownership of common elements and the apportionment of common expenses and common surplus.

20. SEVERABILITY - If any provision of this Amended or Restated Declaration or the exhibits thereto, as now constituted or as later amended, or any section, sentence, clause, phrase or work, or the application thereof in any circumstances is held invalid, the validity of the remainder and of the application of any such provision, section, sentence, clause, phrase or word in other circumstances shall not be affected thereby.

21. VOTING - Each unit shall have one full vote in all Matters.

22. PARKING- A garage space will be assigned to each unit.

23. LEASING - The leasing of -units by unit owners is permitted and is restricted to no less than ninety (90) days for any one leasing period. Each unit owner may, in his sole discretion, elect to: (a) use the unit solely for his own use; (b) rent his unit through his own efforts; or (c) utilize the rental agency services of a licensed real estate brokers in the area.

24. PLAN OF DEVELOPMENT - This is not a phase condominium. The Verandas of Cross Creek, A Condominium is a 34 unit single family residential condominium in three (3) two story buildings, two buildings will contain 12 units each and one building will contain 10 units. The legal description is recorded in O.R. Book 1953, Page 2536, Public Records of Lee County, Florida.

A. There are two (2) typical unit types in this condominium as follows:

(.1) UNIT A - 2 bedrooms/2 bathrooms consisting of approximately 1232 square feet of living space and a lanai consisting of 203 square feet.

(.2) UNIT B - 2 bedrooms/2 bathrooms consisting of approximately 1142 square feet of living space and a lanai consisting of 210 square feet.

B. Voting: Each unit shall have one full vote in all matters.

C. The manner in which the apportionment of common expenses and common surplus and the ownership of common elements has been determined is by utilizing a fraction, the numerator of which is one (1) and the denominator of which is the number of all units submitted to a condominium ownership. Therefore, each unit owns a 1/34th interest in the common expenses, common surplus and common elements.

25. MANDATORY MEMBERSHIP - There are memberships in a Master Association associated with this condominium for the operation and maintenance of certain common properties.

A. Membership in the Master Association is mandatory for unit owners.

B. Unit owners are required to pay their share of the cost and expense of maintenance, management, upkeep, replacement and assessments under the Declaration of Covenants, Conditions and Restrictions for the Cross Creek of Fort Myers Master Association, (the Master Association).

C. This condominium is part of and subject to the Declaration of Covenants, Conditions and Restrictions for the Cross Creek of Fort Myers Community Association, dated March 28, 1984 and recorded in Official Records of Lee County, Florida. Each owner of a condominium unit in this condominium shall automatically become a member in the Cross Creek of Fort Myers Community Association, Inc., a non-profit corporation, which has been created to maintain certain common properties as defined in the Declaration of Covenants, Conditions and Restrictions as above referenced. -

D. All members in the Cross Creek of Fort Myers Community Association, Inc. are subject to and shall abide by the Declaration of Covenants, Conditions and Restrictions for. the Cross Creek of Fort Myers Master Association as above referenced. The Estimated Operating Budget for The Verandas of Cross Creek Condominium Association, Inc reflects the assessment by the Cross Creek of Fort Myers Community Association, Inc. which is subject to change.

26. GOLF COURSE AND CLUBHOUSE - The Master Association shall operate, maintain and hold record title to the golf course and clubhouse for the use and benefit of its members. See Article II, Section 3 of the Master Declaration of Covenants, Conditions and Restrictions for Cross Creek of Fort Myers.

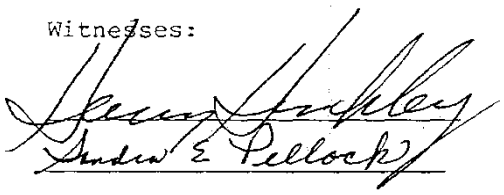
27. THE 100 YEAR FLOOD ELEVATION - as determined by the Federal Flood Insurance Rate Maps places this property in an area that is subject to flooding under the 100 year event and, therefore, the property owners are advised to consult the County Building Department and consider this matter at the time of construction or purchase of a residential structure.

28. BOARD APPROVAL OF SALE OR LEASES - Any owner who desires to sell or lease his unit shall submit all information regarding same to the Board of Directors as they may require from time to time and the Board of Directors has the right to approve any sale or lease for one year. The Board may charge the highest fee or expense as allowed by law for the transfer. The owner shall also notify the Association manager of the name and address of all transferees and lessees as the case might be. The Board may adopt rules and regulations concerning their approval of all sales and leases from time to time.

THIS AMENDED AND RESTATED DECLARATION OF CONDOMINIUM a attachments hereto made and entered into this 10th day of June 1992
THE VERANDAS OF CROSS CREEK CONDOMINIOM ASSOCIATION, INC.

BY:
President

Witnesses:



This instrument prepared by:

RICHARD T. COTTER, P.A.
Echols, Cotter & Shenk()
Post Office Box 2579
Fort Myers Beach, FL 33932

STATE OF FLORIDA COUNTY OF LEE
I HEREBY CERTIFY that on this 10th day of June 1992 before me personally appeared as President of THE VERANDAS OF CROSS CREEK CONDOMINIUM ASSOCIATION, INC., to me known to be the person described in and who executed the foregoing Amended and Restated Declaration of Condominium of THE VERANDAS OF CROSS CREEK, A CONDOMINIUM., and severally acknowledged the execution thereof which person was personally known to me and who did take an oath.

WITNESS MY HAND and official seal at Fort Myers, in the County and State. named above, on the day and year last written.

NOTARY PUBLIC STATE OF FLORIDA
My Commission Expires: 10/31/93
BONDED THRU GENERAL INS. UND.

• . 1 s 1*0/MY9 0►1/.11 HH • ► P N ** 'v* 1w

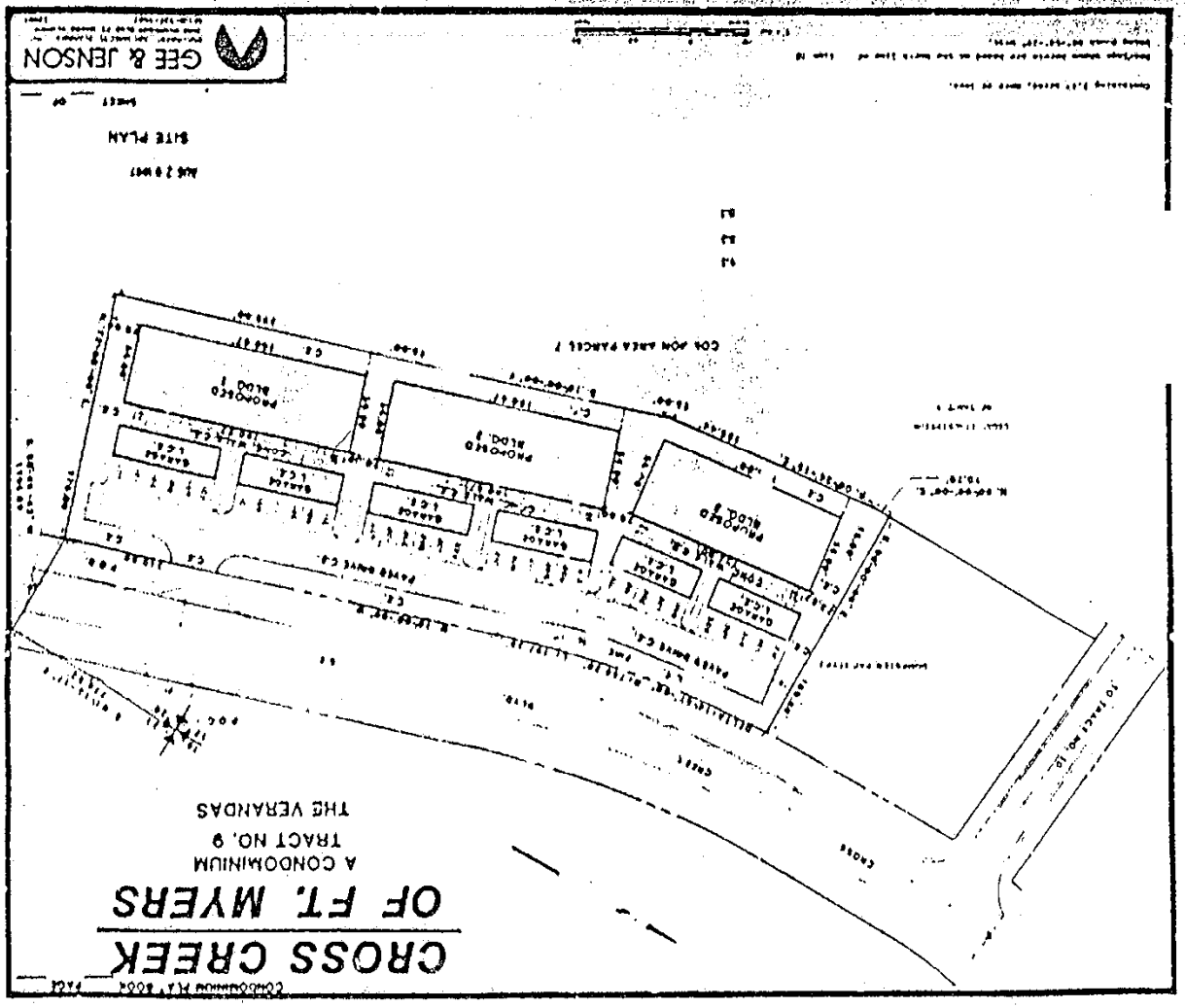


EXHIBIT "A"

ORE1 453 PG2536

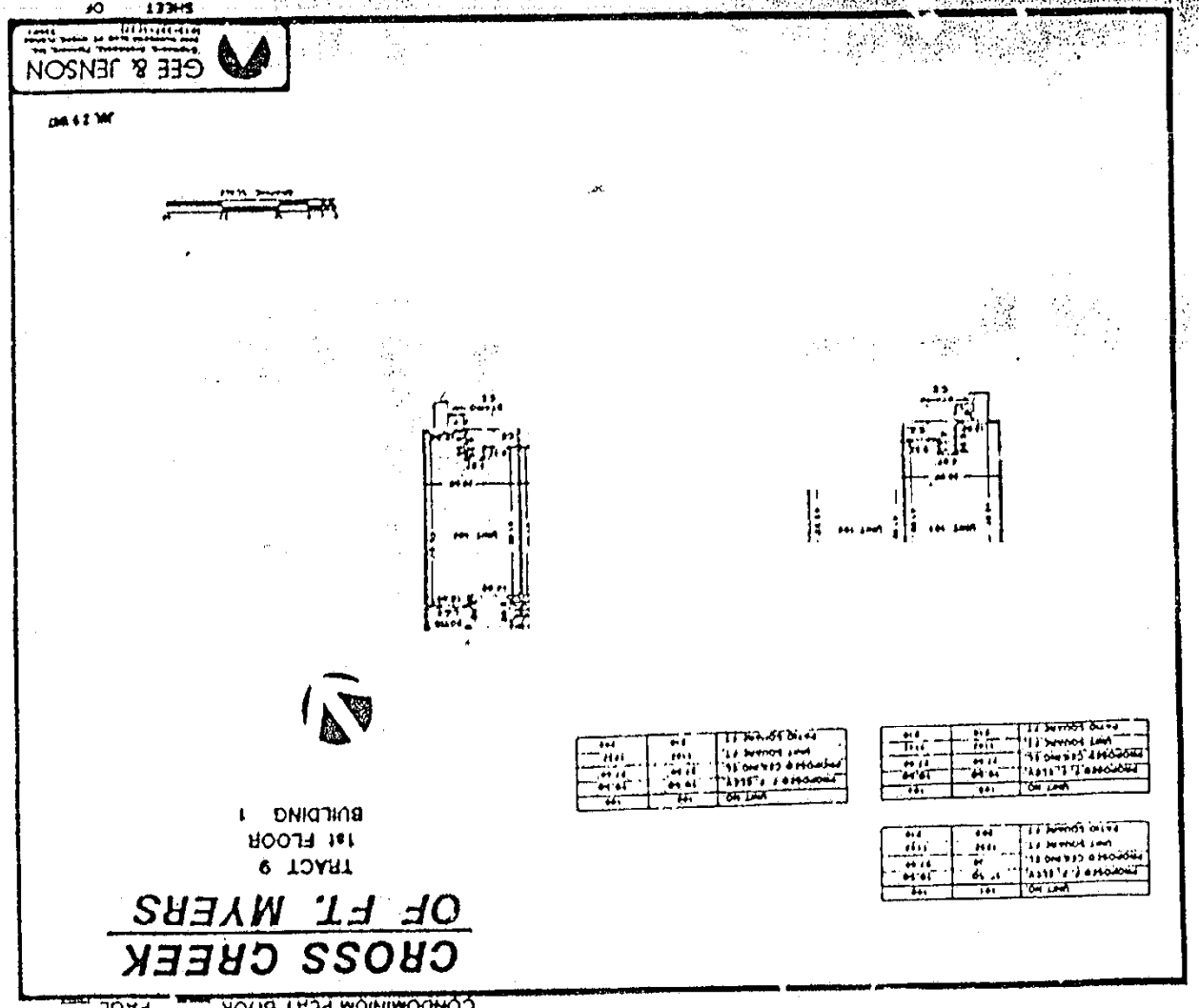
Revised Pg.24

ORZ309 PG1007

n

...t t. A1i10 M trm■ /IM f1EW ff W poll 111.0.007 s t

RECORDER'S MEMO:
Legibility of Writing, Typing or Printing Unsatisfactory in This Document When Received.



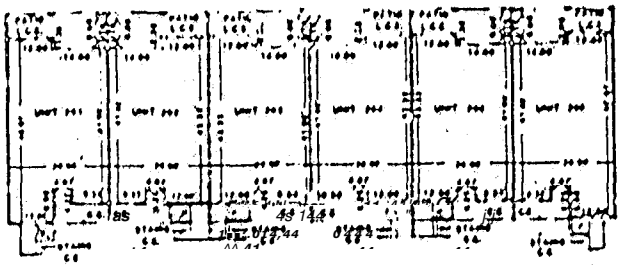
OFFICIAL RECORDS
BOOK 1953 PAGE 2537

w►

OFF REC 1953 PG 2539

CROSS CREEK
OF FT. MYERS

TRACT 9
1st FLOOR
BUILDING 2



NOTES:

1. [illegible]
2. [illegible]
3. [illegible]
4. [illegible]
5. [illegible]
6. [illegible]
7. [illegible]

JUL 29 1987

GEE & JENSON

SHEET OF

27

RECORDERS MEMO
Legibility of Writing, Typing or Printing Unsatisfactory in This Document When Received.

EXHIBIT "B"

ARTICLES OF INCORPORATION

OF

THE VERANDAS OF CROSS CREEK CONDOMINIUM ASSOCIATION, INC.

(A NONPROFIT FLORIDA CORPORATION)

The undersigned hereby associate themselves for the purpose of forming a corporation not for profit under Chapter 617, Florida Statute, and certify as follows:

ARTICLE I.

The name of this corporation is THE VERANDAS OF CROSS CREEK CONDOMINIUM *ASSOCIATION,* INC. (hereinafter referred to as the 'Corporation').

ARTICLE II.

The purposes for which this Corporation is organized is to act as the governing association, pursuant to Chapter 718, Florida Statute, of THE **VERANDAS** *OP CROSS* CREEK, A **CONDOMINIUM,** (hereinafter referred to as the 'Condominium'), located in Lee County, Florida. Additionally, the Corporation may be the **governing** association of other condominiums developed within the CROSS CREEK OF FORT ***MYERS COMPLEX, of*** which the THE VERANDAS OF CROSS CREEK, A CONDOMINIUM, is a part, if the Declaration of Condominium of such other condominium provides fhot the Corporation will operate such condominium. In the event the Corporation operates more than one ill condominium, then all references in these Articles of Incorporation, or in the Bylaws of the Corporation, to the Condominium, a condoainiu-m unit or c unit owner, shall refer to all of such condominiums, **operated** by the Corporation, all of the declarations of such condominiums and all of the units and unit owners in such condominiums.

ARTICLE III.

The qualification of members of this **Corporation** shall be ownership of **a** condominium unit in the Condominium and admission shall be automatic upon securing title to said condominium unit.

ARTICLE IV.

This Corporation shall exist perpetually.

ARTICLE V.

The names and residences of **the subscribers and initial directors to these Articles of Incorporation are as follows:**

ROBERT GLEASON	**6314 Whiskey Creek Drive, Suite B Fort Myers, Florida 33907**
GUSTAVO HEVIA	**6314 Whiskey Creek Drive, Suite B Fort Ayers, Florida 33907**
. ***BRUCE UPTON***	**6314** Whiskey Creek Drive, Suite **B** Fort Myers, 'Florida 33907

ARTICLE VI.

The affairs of this Corporation are to be m;.naged initially by a Board of three (3) Directors who will be elected each year at the annual meeting of the Corporation as provided for in the By-Laws. At such time as the Developer has relinquished control of the *Corporation* as provided by the Condominium Act, the Board may be composed of any odd number of Directors that they decide (as provided for in the By-Laws).

ARTICLE VII.

GUSTAVO HEVIA
6314 Whiskey Creek Drive, Suite B
Fort Myers, Florida 33907

BRUCE UPTON
6314 Whiskey Creek Drive, Suite B
Fort Myers, Florida 33907

ARTICLE VIII.

ARTICLE X.

ARTICLE XI.

ARTICLE XII.

ACCEPTED: ROBERT GLEASON

9 PG1 2

The names of the Officers who are to serve until the first election or appointment under the Articles of Incorporation are:

ROBERT GLEASON 6314 Whiskey Creek Drive. Suite Fort Mvers. Florida 33907	President Vice President Secretary/Treasurer

OR230

The By-Laws of this Corporation are to be made, altered, amended or rescinded by a majority vote of the members and Directors of this Corporation.

ARTICLE **IX.**

Amendments to the Articles of Incorporation may be proposed and adopted at any regular or specially called meeting of the members of this Corporation or any annual meeting of this Corporation.

d Each unit in the Condominium shall have one 41) full vote, which vote shall be cast by **a** designated owner as provided for in the Declaration of Condominium.

This Corporation **reserves** the right to **amend** or .repeal any provisions contained in these Articles of Incorporation.

This Corporation shall have a13 the powers permitted by law together with such additional specific powers as are contained in the Declaration and By-Laws.

ARTICLE XIII.

No part of the net earnings of this Corporation shall inure to the benefit of any member or individual, except through the acquisition, construction, management, maintenance, or care of this Cor'-'ration's property or through the rebate of the excess membership dues, fees, or assessments.

ARTICLE XIV.

The initial registered office of this corporation shall be located at 6314 Whiskey Creek Drive Suite B, Fort Myers, Florida 33907, and the initial registered agent at that address is ROBERT GLEASON.

Having been named to accept service of process for the above state corporation, at the place designated in these Articles, I do hereb 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.

Accepted: Robert Gleason

OFF REC 1953 PG 2553

IN WITNESS WHEREOF, the undersigned subscribers have executed these Articles of Incorporation this 31st day of July, 1987.

Witnesses:

ROBERT GLEASON

GUSTAVO HEVIA

BRUCE UPTON

STATE OF FLORIDA)
)
COUNTY OF LEE)

BEFORE ME, the undersigned, a Notary Public authorized to take

Notary Public (SEAL)

My Commission Expires:

Notary Public, State of Florida At Large
My Commission Expires: Dec. 17, 1990

OR2309 PG10

acknowledgments in the **State and** County aforesaid, personally **appeared ROBERT GLEASON, GUSTAVO HEVIA and *BRUCE UPTON,* known to** me to be the persons who executed the foregotng Articles of Incorporation, and they acknowledged before me that they execute those Articles of Incorporation for the purposes therein expressed

WITNESS my hand **and seal** this 21st **day of** July 1987

OFF REC 1953 FS 2540

CONDOMINIUM PLAT BOOK ____ PAGE ____

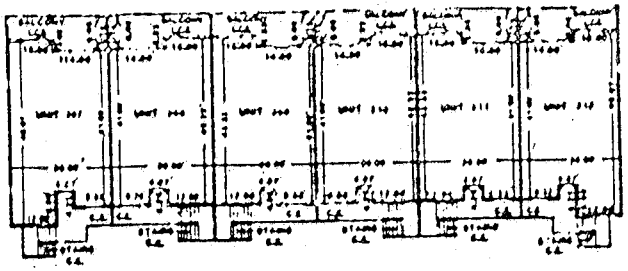
CROSS CREEK OF FT. MYERS

TRACT 9
2nd FLOOR
BUILDING 7

UNIT NO.	201	202
PROPOSED F. F. ELEV.	24.17	24.17
PROPOSED GARAGE EL.	24.17	24.17
UNIT SQUARE FT.	1232	1232
PATIO SQUARE FT.	202	210

UNIT NO.	203	204
PROPOSED F. F. ELEV.	24.17	24.17
PROPOSED GARAGE EL.	24.17	24.17
UNIT SQUARE FT.	1232	1232
PATIO SQUARE FT.	210	210

UNIT NO.	205	206
PROPOSED F. F. ELEV.	24.17	24.17
PROPOSED GARAGE EL.	24.17	24.17
UNIT SQUARE FT.	1232	1232
PATIO SQUARE FT.	210	210



NOTES:

1. ELEVATIONS SHOWN HEREON ARE BASED ON N.G.V.D.
2. ALL UNIT DIMENSIONS ARE SHOWN TO THE NEAREST ONE TENTH FOOT (0.1').
3. DENOTES COMMON OR BEARING WALLS
4. C.E. DENOTES COMMON ELEMENT
5. L.C.E. DENOTES LIMITED COMMON ELEMENT
6. PATIO'S, LANAI'S & BALCONIES, ARE LIMITED COMMON ELEMENTS
7. THE UNIT SHALL BE BUILT AS SHOWN

JUL 29 1987

GEE & JENSON

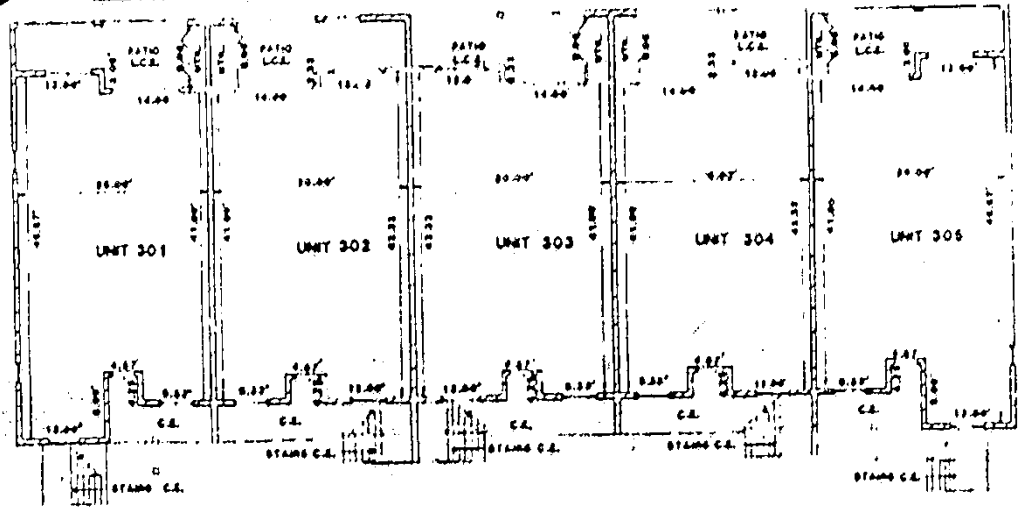
SHEET ____ OF ____

RETURN TO:
Property of Title Security Agency of Florida, Inc.
Factory is This Document Must Be Returned

OFF REC 1953 PG 2541

CROSS CREEK OF FT. MYERS

TRACT 9
1st FLOOR
BUILDING 3



NOTES:

1) ELEVATIONS SHOWN HEREON ARE BASED ON N.G.V.D.
2) AS-BUILT DIMENSIONS ARE SHOWN TO THE NEAREST ONE TENTH FOOT (0.0')
3) DENOTES COMMON OR BEARING WALLS
4) C.E. DENOTES COMMON ELEMENT
5) L.C.E. DENOTES LIMITED COMMON ELEMENT
6) PATIO'S, LANAI'S & BALCONIES, ARE LIMITED COMMON ELEMENTS
7) THESE UNITS SHALL BE BUILT AS SHOWN HEREON

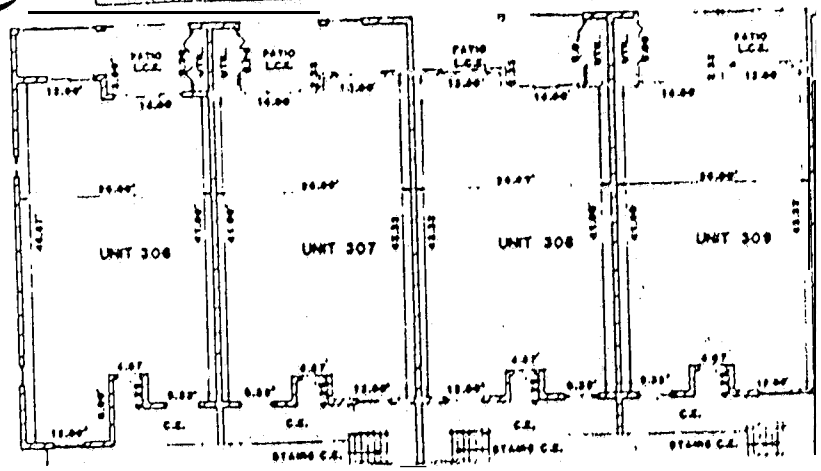
GEE & JENSON

SHEET OF

Document is NOT OFFICIAL!
This Document is the property of the Lee County Clerk of Courts
and may not be reproduced

CONDOMINIUM PLAT BOOK PAGE

UNIT NO. 110
PROPOSED S.F. BLDG. 39.17
PROPOSED S.F. GARAGE 39.17
UNIT SQUARE FT. 1236
PATIO SQUARE FT. 909



RECORDER'S NOTED:
Legibility of Writing, Typing or Printing Unsatisfactory in This Document When Received.

THE VILLAGE OF CROSS CREEK

DEC 19 53 PG 2543

OR2309 PG1017

RECORDERS MEMO:
Legibility of Writing, Typing or Printing Unsatisfactory in This Document When Received.

OFFICIAL RECORDS
REC# 95362548

EXHIBIT "C"

AMENDED AND RESTATED

BY-LAWS OF

THE VERANDAS OF CROSS CREEK CONDOMINIUM ASSOCIATION, INC.

1. IDENTITY - These are By-laws of THE VERANDAS OF CROSS CREEK CONDOMINIUM ASSOCIATION, INC., a non-profit Florida corporation formed for the purpose of administering THE VERANDAS OF CROSS CREEK CONDOMINIUM, which is located in Lee County, Florida, upon the lands described in the Declaration of Condominium of THE VERANDAS OF CROSS CREEK CONDOMINIUM. (The Corporation shall hereafter be referred to as the "Association".) All references herein to "the Board" shall be deemed to mean the Board of Directors of THE VERANDAS CROSS CREEK CONDOMINIUM ASSOCIATION, INC.

(.1) OFFICE - The office of the Association shall be at the Condominium or at. such other place as the Board of Directors may determine from time to time in the county where the condominium is located.

(.2) FISCAL YEAR - The fiscal year of the Association shall be the calendar year.

(.3) SEAL - The seal of the Association shall bear the name of the Association, the word "Florida", and the year of establishment.

2. MEMBERS' MEETINGS

(.1) ANNUAL MEMBERS' MEETINGS shall be held at the Condominium or at. such other convenient location as may be determined by the Board of Directors, at such hour and on such date each year as may be determined by the Board, for the purpose of electing Directors and of transacting business authorized to be transacted by the members.

(.2) SPECIAL MEMBERS' MEETINGS shall be held whenever called by the President, Vice-President, or by a majority of the Board of Directors, and when called by written notice from ten (10%) percent of the entire membership to do so.

(.3) NOTICE OF MEMBERS' MEETINGS - Notice of the annual meeting shall be sent to each unit owner by United States mail at least fourteen (14) days prior to the annual meeting. A post office certificate of mailing shall be obtained and retained as proof of such mailing. Written notice of the meeting shall also be posted in a conspicuous place on the condominium property at least fourteen (14) days prior to the annual meeting.

Notice of a special meeting called by the Board at the written request of ten percent (10%) of the owners because of a budget exceeding 115% of that of the preceding year requires not less than ten (10) days' written notice to each unit owner.

Notice of other special meetings not covered above shall be in writing and mailed to each member first class, postage pre-paid not less than ten (10) days prior to the meeting. However, unit owners may waive notice of specific meetings and may take action by written agreement without meetings where it is in the best interest of the condominium to do so.

All notice of meetings shall state clearly and particularly the purpose or purposes of the meeting.

(.4) A QUORUM at members' meetings shall consist of Persons entitled to cast a majority of the votes of the entire membership. Decisions made by owners of a majority of the units

represented at a meeting at which a quorum is present shall be binding and sufficient for all purposes except an amendment to the condominium documents or such other decision as may by law or said documents require a larger percentage in which case the percentage required in the documents or law shall govern.

(.5) EACH UNIT shall have one indivisible vote, and the vote of the owners of al unit owned by more than one person (except husband and wife either of whom may cast the vote) or by a corporation or other entity shall be cast by the person named in a certificate signed by all of the owners of the unit and filed with the Secretary of the Association. The certificate shall be valid until revoked by a subsequent certificate. If such a certificate is not on file, the vote of such unit shall not be considered in determining the requirement for a quorum not for any other purpose.

(.6) PROXIES - Votes may be cast in person or by proxy. Proxies shall be in writing, signed and dated and shall be valid only for the particular meeting designated therein and must be filed with the Secretary before or at the appointed time of the meetings. In no event shall a proxy be valid for more than ninety (90) days from the scheduled meeting date. Proxies may only be used as allowed by law as it is amended from time to time. Ballot voting or other voting procedures as may be authorized by law shall be allowed.

(.7) APPROVAL OR DISAPPROVAL of a unit owner upon any matter, whether or not the subject of an Association meeting, shall be by the same person who would cast the vote of such owner if in an Association meeting. -

(.8) ADJOURNED MEETINGS - If any meeting of members cannot be organized because a quorum has not attended, the members who are present,, either in, person or by proxy, may adjourn the meeting from time to time until a quorum is present.

(.9) THE ORDER OF BUSINESS AT ANNUAL MEMBERS' MEETINGS, and, as far as applicable at all other members' meetings, may be:

(a) Election of a Chairman of the meeting, unless the President or Vice-President of the association is present then he (or she)shall preside.

(b) Calling of the roll and certifying of proxies.

(c) Proof of Notice of meeting or waiver of notice.

(d) Reading and disposing of any unapproved minutes.

(e) Reports of Directors.

(f) Reports of Committees.

(g) Any other business as may be authorized by law.

(h) Adjournment.

(.10) ELECTION OF DIRECTORS shall be provided by law as it is amended from time to time.

3. BOARD OF DIRECTORS

(.1) MEMBERSHIP- The affairs of the Association shall be managed initially by a Board of any odd number of Directors that the Owners may decide. Each Director shall be a person entitled to cast a vote in the meetings of Association.

(.2) DESIGNATION OF DIRECTORS shall be in the following

(a) Members of the Board of Directors shall be elected as provided by law as it is amended from time to time.

(b) Except as to vacancies provided by removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by a majority vote of the remaining Directors and such appointed Director's term shall be until the next regular election. manner:

(c) Any Director may be removed with or without cause by concurrence of a majority of the members of the Association, either by written agreement or at a special meeting of the members called for that purpose either by a majority of the Board of Directors or by ten (10%) percent of the members. The vacancy in the Board of Directors so created shall be filled by the members of the Association at the same meeting.

(.3) THE TERM OF EACH DIRECTOR'S SERVICE shall extend until the next annual meeting of the members and, thereafter until his successor is duly elected and qualified, or until he is removed in the manner elsewhere provided. Provided however, that in order to provide a continuity of experience, the members at the meeting may vote to establish a system of staggered terms as the owners may determine.

(.4) THE ORGANIZATION MEETING of the newly elected Board of Directors shall be, held at such place and time as shall be fixed by the Directors, provided a quorum shall be present.

(.5) 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 not less than quarterly. Notice of regular meetings shall be given to each Director personally or by mail, telephone or telegraph, at least seven (7) days prior to the day named for *such* meeting.

(.6) SPECIAL MEETINGS OF THE DIRECTORS MAYBE called by the President and must be called by the Secretary at the written request -of one-third of the Directors. Not less than seven (7) days' notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting, except in an emergency.

(.7) WAIVER OF NOTICE - Any Director may waive notice of a meeting before, at or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

(.8) MEETINGS OF THE BOARD OF DIRECTORS shall be open to all unit owners as provided by law as it is amended from time to time. Notice of meetings shall be posted conspicuously on the condominium property forty-eight **(48)** continuous hours in advance for the attention of unit owners except in an emergency.

(.9) A QUORUM AT DIRECTORS' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at the meeting at which a quorum is present shall constitute the acts of the Board. If at any meeting of the Board there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until the quorum is present. At *any* adjourned meeting any business which might have been transacted at the meeting as originally. called may be transacted without further notice.

(.10) THE PRESIDING OFFICER at Directors' meeting shall be the President of the Board if such an officer has been elected; and if none, then the Vice-President shall preside. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

(.11) DIRECTORS SHALL SERVE WITHOUT PAY, but shall be entitled to reimbursement for expenses reasonably incurred.

4. POWERS AND DUTIES OF THE BOARD OF DIRECTORS - All of the powers and duties of the Association existing under the Condominium Act, Declaration of Condominium and these By-Laws shall be exercised exclusively by the Board of Directors, or its duly authorized agents, contractors, or employees subject only to the approval by

unit owners, when such is specifically required. Such powers and duties of the Directors shall include but shall not be limited to the following:

(.1) TO MAKE AND COLLECT ASSESSMENTSAGAINST members to defray the costs of the condominium, and to accelerate assessments as allowed by law in the case of delinquency of assessments.
(.2) TO USE THE PROCEEDS OF ASSESSMENTS in the exercise of its powers and duties.
(.3) THE MAINTENANCE, REPAIR, REPLACEMENT AND OPERATION of the condominium property.
(.4) THE RECONSTRUCTION OF IMPROVEMENTS AFTER CASUALTY and the further improvement of the property.
(.5) TO APPROVE OR DISAPPROVE PROPOSED TRANSACTIONS in the manner provided by the Condominium Declaration.
(.6) TO ENFORCE by legal means the provisions of applicable laws, the condominium documents, the By-Laws of the Association, and the regulations for the use of the property in the condominium and to assess reasonable penalties and fines as against unit owners for violation of the By-Laws and the Rules and Regulations as promulgated by the Board of Directors.
The association shall perform the following prior to a hearing for assessment for levy of a fine for a violation of the Bylaws and/or the Rules and Regulations:
(a) Notify the Unit Owner in writing of the date, time and place at least 14 days prior to the meeting.
(b) Provide a statement of the provisions of the Declaration, Association By-Laws, or Association Rules which have been violated.
(c) Provide a statement of the asserted violations.
(d) The Unit owner shall have the opportunity to respond and present evidence, either written or oral, to the Association.
(.7) TO CONTRACT FOR MANAGEMENT of the condominium.

(.8) TO PAY TAXES AND ASSESSMENTS which are liens against any part of the condominium other than individual units and the appurtenances thereto, and to assess the same against the unit subject to such liens.
-
(.9) TO CARRY INSURANCE for the protection of the unit owners and the Association against casualty and liabilities.
(.10) TO PAY THE COST OF ALL POWER, WATER, SEWER and other utility services rendered to the condominium and not billed to owners of individual units.
(.11) TO EMPLOY PERSONNEL and designate other officers for reasonable compensation and grant them such duties as seems appropriate for proper administration of the purposes of the Association.
(.12) TO BRING SUIT, EXECUTE-CONTRACTS, DEEDS, MORTGAGES, LEASES and other instruments by its officers and to own, convey and encumber real and personal property.
(.13) TO IMPOSE FINES and collect interest and late fees all at the highest rate allowed by law as it is amended from time to time.
(.14) TO ESTABLISH EXECUTIVE COMMITTEES from time to time where allowed to do so as authorized by law and as it may be amended from time to time or to delegate matters to agents or managing agent of the association.

(.15) TO EVICT any tenant, guest or invitee for - violation of the condominium documents and the owner is responsible for all costs, fees and attorneys' fees in connection therewith.
(.16) TO DO ALL THINGS that a Condominium Association can do under Chapter 607, Chapter 617 and Chapter 718 of the Florida Statutes and or they may be amended from time to time.

5. OFFICERS

(.1) THE EXECUTIVE OFFICERS of the Association shall be the President, a Vice-President, a Secretary and a Treasurer, all of whom shall be elected annually by and from the Board of Directors and who may be preemptorily removed by a majority vote of the Directors at any meeting. Any person may hold two or more offices except that the President shall not also be the Secretary or Assistant Secretary.

(.2) THE PRESIDENT shall be the chief executive officer of the Association. He shall have the powers and duties which are usually vested in the office of President of a corporation.
(.3) THE VICE-PRESIDENT shall in the absence or disability of the President exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.
(.4) THE SECRETARY shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the giving and serving of all notices to the members and Directors and other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of , Secretary of the Association and as may be required by the Directors or the President. The Assistant Secretary will perform the duties of the Secretary when the Secretary is absent.

(.5) THE TREASURER shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He shall keep the assessment rolls and accounts of the members; he shall keep the books of the Association in accordance with good accounting practices; and he shall perform all other duties incident to the office of the Treasurer of a corporation.
(.6) THE COMPENSATION of all officers and employees of the Association shall be fixed by the Directors. This provision shall not preclude the Board of Directors from employing a Director as an employee of the Association or preclude the contracting with a Director for the management of the condominium.
6. MINUTES OF ALL MEETINGS OF UNIT OWNERS and of the Board of Directors shall be kept in a businesslike manner and these plus records of all receipts and expenditures and all other records shall be available for inspection by unit owners and Board members at all reasonable times.

7. FISCAL MANAGEMENT shall be in accordance with the following provisions:
(.1) BUDGET

R2309 PG1025

(a) A proposed annual budget of common expenses shall be prepared by and approved by the Board of Directors which shall include all anticipated expenses for operation, maintenance and administration of the condominium including insurance, management fees, if any, and which shall accrue a reserve for deferred replacement maintenance and depreciation, unless waived annually by a majority vote. It will contain a reasonable allowance for contingencies, and provide funds for all unpaid operating expense previously incurred.

(b) A copy of the proposed annual budget shall be mailed to the unit owners no less than fourteen (14) days prior to a meeting of the directors at which the budget will be considered together with a notice of the meeting.

(.2) ASSESSMENTS - The shares of the unit owners of the common expenses shall be made payable quarterly in advance and shall become due on the first day of each quarter. The amounts shall be no less than are required to provide funds in advance for payment of all the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred.

(.3) EMERGENCY ASSESSMENTS - Assessments for the expenses of emergencies which cannot be paid from the contingency account shall be made only by the Board of Directors and the time of payments shall likewise be determined by them.

(.4) ASSESSMENTS ROLL - The assessments for common expenses according to the budget shall be set forth upon a roll of the units which shall be available for inspection at all reasonable times by unit owners. Such roll shall indicate for each unit the name and address of the owner, the assessments paid and unpaid. A certificate made by a duly authorized representative of the Directors as to the status of a unit's account may be relied upon for all purposes for any person for whom made other than the unit owner.

(.5) LIABILITY FOR ASSESSMENTS - A unit owner shall be liable for all assessments coming due while he is the owner of a unit, and such owner and his grantees after a voluntary conveyance, shall be jointly and severally liable for all unpaid assessments due and payable up to the time of such voluntary conveyance. Such liability may not, be avoided by a waiver of the use or enjoyment of any common elements, or by abandonment of the unit for which the assessments are made, per Florida Statute 718.116.

(.6) LIEN FOR ASSESSMENTS - The unpaid portion of an assessment which is due together with interest thereon and reasonable attorney's fees for collection, shall be secured by a lien upon:

(a) THE UNIT, and all appurtenances thereto when a notice claiming the lien has been recorded by the Association. in accordance with the requirement of Florida Statute 718.116. Such lien shall be subordinate to any prior recorded mortgage on the unit.

(b) ALL TANGIBLE PERSONAL PROPERTY located in the unit except that such lien shall be subordinate to prior liens and security interests of record.

(c) COLLECTION -

(i) INTEREST - APPLICATION OF PAYMENTS - Assessments paid on or before fifteen (15) days after the date due shall not bear interest, but all sums not paid on or before fifteen (15) days shall bear interest at the highest rate allowed by law as it is amended from time to time from the date due until paid plus the highest late fee as is authorized by law as it is amended from time to time. All payments upon account shall be first applied to interest and then late charges then to the assessment payment first due or in any other order as may be authorized by law as it is amended from time to time. The Board of Directors may accelerate assessment as allowed by law as it is amended from time to time.
(ii) SUIT The Association, at its option, ;lay enforce collection of delinquent assessment accounts by suit at law or by foreclosure of the lien securing the assessments, or by any other remedy available under the laws of the State of Florida, and in either event the Association shall be entitled to recover the payments which are delinquent at the time of judgment or decree, together with interest thereon at the highest rate allowed by law as it is amended from time to time, and all costs incident to the collection and the proceedings, including reasonable attorney's fees. Per Florida Statute 718.118(5)(b) the Association must deliver or mail by certified mail to the unit owner a written notice of its intention to foreclose the lien 30 days before commencing foreclosure.

(.7) ACCOUNTS - All sums collected from assessments may be commingled in a single fund if allowed by law, but they shall be held in trust for the unit owners in the respective shares in which they are paid and shall be credited to accounts from which shall be paid the expenses for which the respective assessments are made. The various accounts shall be as the Board of Directors may determine or as may be required by law as it is amended from time to time. Accounts that are required to be kept as separate accounts shall be kept separate as is required by law as it is amended from time to time.

(.8) THE DEPOSITORY of the Association shall be such bank or banks in Florida or other depository institutions as may be authorized by law as it is amended from time to time as shall be designated from time to time by the Directors and iri which the monies from such accounts shall be withdrawn only by checks signed by such persons as are authorized by the Directors. Reserve accounts, however, may be placed in money market certificates or daily cash reserve accounts with stock brokers to earn higher interest if authorized by law as it is amended from time to time.

(.9) A FINANCIAL REPORT of the accounts of the Association shall be made annually "and a copy of the report shall be furnished to each member within 30 days after its completion and delivery to the Directors, or at the annual meeting.

(.10) FIDELITY BONDS shall be required by the Board of Directors from all officers and directors or agents of the Association who control or disburse Association funds. The minimum amount of such bonds shall be determined by law as it is amended from time to time. The premiums of such bonds shall be

paid by the Association. Further additional bonding may be initiated by the Board as the Board may require from time to time.

8. PARLIAMENTART RULES - Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Declaration, the By-Laws of the Association. or with the Laws of the State of Florida.

9. AMENDMENTS - Amendments to the By-Laws shall be proposed in the following manner:

(.1) 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.

(.2) A RESOLUTION adopting a proposed amendment must receive approval of a majority of the votes of the entire membership 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.

(.3) INITIATION - An amendment may be proposed by either a majority of the Board of Directors or by ten (10%) percent of the membership of the Association.

(.4) EFFECTIVE DATE An amendment when adopted shall become effective only after being recorded according to law.

(.5) THESE BY-LAWS shall be deemed amended, if necessary, so as to make the same consistent with the provisions of the Declaration of Condominium, or the Condominium Act.

(.6) PROPOSAL TO AMEND EXISTING BY-LAWS shall contain the full text of the By-Laws to be amended. New words shall be underlined and words to be deleted shall be lined through with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying "SUBSTANTIAL REWORDING OF BY-LAW. SEE BY-LAW n FOR PRESENT TEXT" or such other wording as may be required by law.

10. WEIGHT OF VOTES cast by members of the Association shall be one vote for each unit.

11. WRITTEN AGREEMENT. In the event the Directors deem it necessary to do so they and the owners may act by written agreement without meetings, which written agreement may be executed in counterparts.

12. RESTRICTION ON TRANSFERS OR LEASES. In the event any owner. desires to transferor sell or to lease his unit he shall first give the board of directors full information on any proposed transfer or lease of the unit and shall furnish the association with such information as it may require from time to time. The board of directors shall have at least 30 days to consider any proposed sale or transfer after receipt of all information requested from the owner. If the board of directors approves of the transfers it shall execute a consent to transfer in writing which shall, be recorded by the owner. It is the owners responsibility to fill in the name and address of the purchaser and to send a copy of the recorded consent and warranty deed or other instrument of conveyance to transfer to the association as well as the management company for the association to insure proper billing of assessments in the future.

The board of directors may refuse to consent to a sale or transfer of a unit as authorized by law and in particular if the credit worthiness of a buyer is inadequate then the board shall have the right not to execute a consent to transfer.

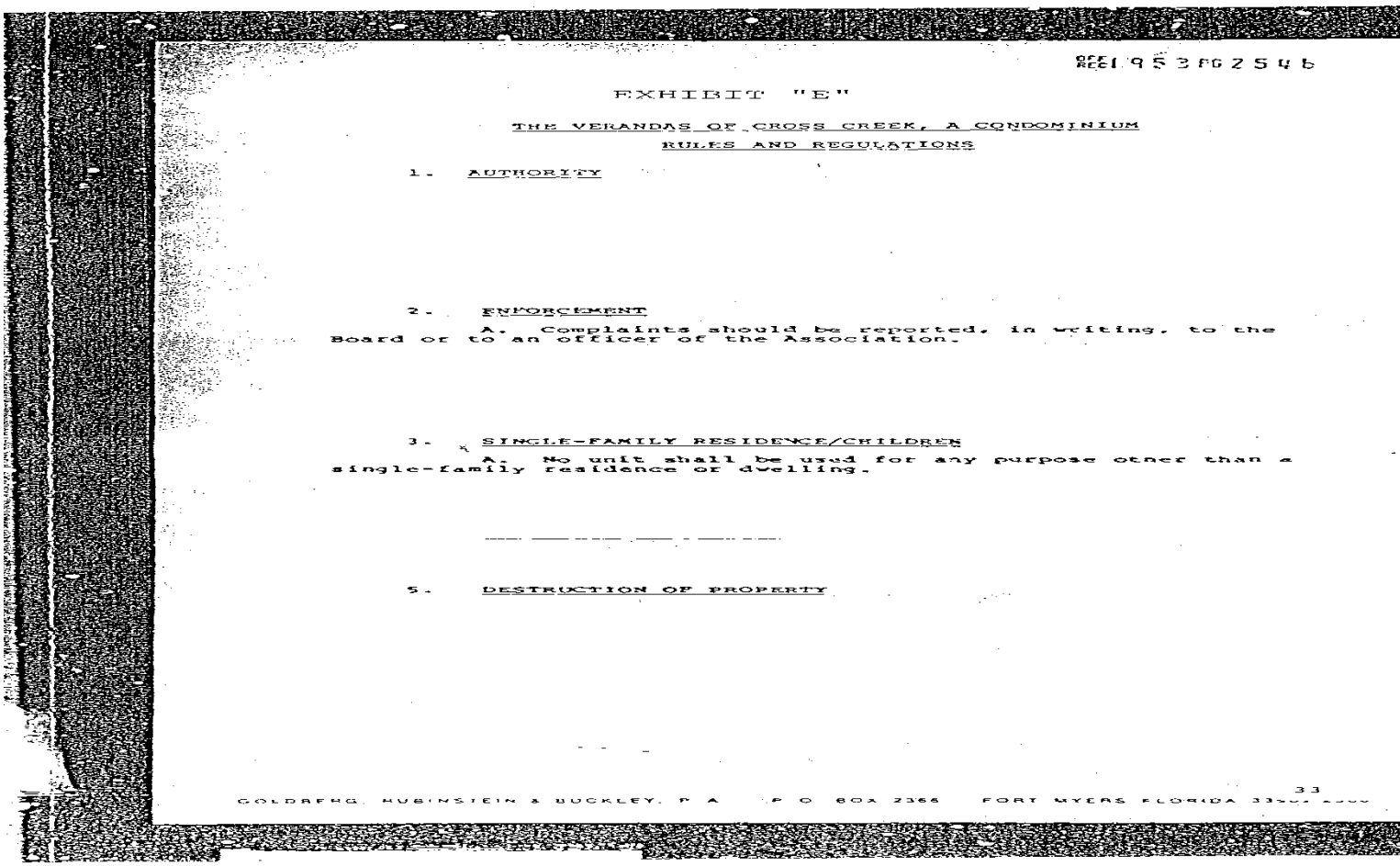
The board may adopt such other rules and regulations from time to time concerning consents to transfer and consents to lease units at the condominium.

EXHIBIT "D"

APPORTIONMENT OF COMMON EXPENSES AND COMMON SURPLUS AND OWNERSHIP OF COMMON ELEMENTS

The manner in which the apportionment of common expenses and common surplus and the ownership of common elements has been determined is by utilizing a fraction, the numerator of which is one (1) and the denominator of which is the number of all units submitted to condominium ownership. Therefore, each unit will own a 1/34th interest in the common expenses, common surplus and common elements.

Off Rec



OFF REC 953 PG 2546

EXHIBIT "E"

THE VERANDAS OF CROSS CREEK, A CONDOMINIUM
RULES AND REGULATIONS

1. AUTHORITY

2. ENFORCEMENT
A. Complaints should be reported, in writing, to the Board or to an officer of the Association.

3. SINGLE-FAMILY RESIDENCE/CHILDREN
A. No unit shall be used for any purpose other than a single-family residence or dwelling.

5. DESTRUCTION OF PROPERTY

GOLDBERG RUBINSTEIN & BUCKLEY, P.A. P.O. BOX 2368 FORT MYERS FLORIDA 33902

33

953 Pg 2546

EXHIBIT “E”

THE VERANDAS OF CROSS CREEK, A CONDOMINIUM

RULES AND REGULATIONS

1. AUTHORITY

A. All unit owners in addition to any other obligation, duty, right and limitation imposed upon them by the Declaration, the Articles of Incorporation and the By-Laws of the Association and the Condominium Act shall be subject to and agree to abide by the following restrictive covenants, which shall be applicable to all unit owners, their All unit owners in addition to any other obligation, duty, right and limitation imposed upon them by the Declaration, the Articles of Incorporation and the By-Laws of the Association and the

Condominium Act shall be subject to and agree to abide by the following restrictive covenants, which shall be applicable to all unit owners, their families, guests, invitees, tenants and lessees.

B. These Rules and Regulations will be reviewed periodically by the Board of THE VERANDAS OF CROSS CREEK CONDOMINIUM ASSOCIATION, INC. and amended as necessary to serve the membership.

2. ENFORCEMENT

A. Complaints should be reported, in writing, to the Board or to an officer of the Association.

B. Minor infractions will be called to the attention of the person or persons involved by an officer of the Association. Repeated infractions and violations of a more serious nature will be referred to the Board for action.

C. Disagreements concerning complaints will presented to the Board for adjudicated and appropriate with enforcement by civil legal process, if necessary.

3. SINGLE-FAMILY RESIDENCE / CHILDREN

A. No unit shall be used for any purpose other than a single-family residence or dwelling.

B. There are no restrictions with regard to children in residency, except children will conduct themselves in accordance with the rules and regulations under parental or guardian supervision

4. BICYCLES/MOTORCYCLES

A. Bicycles and other similar vehicles may be on the premises, but must be kept in assigned areas when use. Bicycles may not be kept on entry areas.

5. DESTRUCTION OF PROPERTY

A. **Owners will be** responsible for destruction, damage, or defacement of buildings, facilities, and equipment caused through their own act(s) and/or the acts of their lessees or guests.

B. Unit owners, their families, guests, invitees or lessees shall be liable to the Association for defacing, marring or otherwise causing damage to the common elements or limited common elements where the repair of said damage is the obligation of the Association.

6. SAFETY

A. No one shall permit any activity or keep anything in a condominium unit, storage area or the common elements which would be a fire or health hazard or in any way tend to

increase insurance rates. This section has particular reference to barbequing outdoors.

7. EXTERIOR APPEARANCE

To maintain a uniform and pleasing appearance of the exterior of the buildings, the following shall apply:

A. No owner, tenant, or other occupant of a condominium unit may paint or otherwise change the appearance of any exterior wall, door, window, balcony, or any exterior surface.

B. No occupant may place any sunscreen, blind, storm shutter or awning on any balcony or exterior opening without first securing written approval of the Board prior to installation. No occupant may erect any exterior lights or signs; place any signs or symbols in windows; erect or attach any structures or fixtures within the common elements except without the written consent of the Board.

C. Occupants are not to erect, construct or maintain any wire devices, antennas or other equipment or structure, on the exterior of the buildings or on or in any of the common elements, except with the written consent of the Board.

D. No clothing, bedding or other similar items, shall be dried or aired in any outdoor area or within the unit or any limited common element if same can be seen from the common elements.

E. No draperies, shades, awnings, or the like shall be used except as shall have been installed or approved by the governing board and no signs of any kind shall be placed in or on windows, doors, terraces, facades, or other exterior surfaces of the buildings.

8. INTERIOR APPEARANCE

A. All unit owners shall keep and maintain the interior of their respective units in good condition and repair, including the entire air conditioning system {compressor, ducts, vents, etc.) servicing the respective owner's unit, whether inside or outside owner's unit and shall promptly pay for all utilities which are separately metered to the unit. The courtyards, rear balconies and screened lanais shall be kept in a clean and sightly manner by the unit owners having the right of exclusive use thereof.

B. No occupant may make any structural additions or alterations {except the erection or removal of non-support carrying interior partitions wholly within the unit) to any unit or to the common elements; or any of the foregoing without prior written consent of the Board.

9. SOLICITATION

A. There shall be no solicitation by any person anywhere in the buildings or the common elements for any cause whatsoever unless invited by the unit owner to be solicited, or specifically authorized by the Board.

10. NOISE

2309

A. All occupants of units shall exercise extreme care about making noises, including automobile related noises, or the use of musical instruments, radios, televisions and amplifiers that may tend to disturb other occupants. Designated "quiet" hours are 11:00 P.M. to 9:00 A.M. Notwithstanding the foregoing, Developer shall not be so restricted during construction of this condominium.

11. PETS

A. Unit owners shall be permitted to keep domestic animals only if such animals do not disturb or annoy other unit owners and weigh less than 25 pounds. Unit owners keeping domestic animals shall abide by municipal sanitary regulations and shall be responsible for any inconvenience or damage caused by such animals. All dogs and cats shall be kept on leashes when not confined to the owner's unit and will be walked only in areas designated from time to time by the Directors for such purposes.

B. If, in the sole judgment of the Board, it is determined that a pet is causing excessive disturbance and annoyance to other occupants, the owner will be asked to dispose of the pet.

C. Lessees or guests of owners will not be permitted to bring pets onto the premises.

D. Pets will not be allowed in the swimming pool or tennis court areas.

12. LEASING/RENTING

A. The sale or transfer of units is not restricted. or controlled. Units may be leased for a period of not less than ninety (90) days for any one leasing period.

13. OCCUPANCY

A. No owner, lessee, or other occupant of a condominium unit shall use the unit for other than single family residence purposes, except for model apartments maintained by the Developer.

14. GARBAGE/REFUSE

A. All garbage and refuse from the units shall be deposited with care in garbage containers intended for such purpose only at such times end in such scanner as the Board will direct. All disposals shall be used in accordance with instructions given to the owners by the Directors. Refuse, newspapers and bagged garbage shall be deposited only in areas provided for such purpose.

15. VISITORS

A. The unit owners, their guests and invitees agree to use the common elements only in accordance with such reasonable rules and regulations as are promulgated from time to time by the Directors for the use of thereof.

16. FACILITIES/GENERAL

A. The facilities of the condominium are for the exclusive use of members of the Association, lessees, their house guests, and guests accompanied by a member or lessee. No guest or relative of a member or lessee may use the facilities unless in actual residence or accompanied by a member or lessee.

B. These rules and regulations shall apply equally to owners, their families, guests and lessees.

17. PENALTIES AND FINES

A. Pursuant to Section 4 of the By-Laws, the Association shall have through its Board the right to assess fines and penalties for the violation of these Rules and Regulations.

18. FOOD AND BEVERAGE

A. Food and beverages may be consumed in the common elements at the personal discretion of the owners.

B. Owners are responsible for leaving the common elements used in a clean condition. Frequent violators may have this privilege revoked by the Board.

C. Outdoor cooking is restricted to areas designed for that purpose.

19. VEHICLES & PARKING

All recreational vehicles, boat trailers, campers and travel trailers are prohibited.