



VIVIENDA WEST CONDOMINIUM ASSOCIATION
699 Vivienda West Blvd.
Venice, Florida 33595

ARTICLES OF INCORPORATION

DECLARATION OF CONDOMINIUM

BYLAWS

PRINTED
May 1981

State of Florida

DEPARTMENT OF STATE • DIVISION OF CORPORATIONS

I certify that the following is a true and correct copy of Articles of Incorporation of VIVIENDA WEST CONDOMINIUM ASSOCIATION, INC., a corporation not for profit organized under the Laws of the State of Florida, filed on January 24, 1978, as shown by the records of this office.

The charter number for this corporation is 741439.

GIVEN under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the 25th day of January, 1978.



Gene A. Smathers
SECRETARY OF STATE

AMENDED

ARTICLES OF INCORPORATION

OF

VIVIENDA WEST CONDOMINIUM ASSOCIATION, INC.

FILED
JAN 24 2 01 PM 1978
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

The undersigned do hereby associate themselves for the purpose of forming a corporation not for profit. Pursuant to the provisions and laws of the State of Florida, we certify as follows:

ARTICLE I

The name of the corporation shall be VIVIENDA WEST CONDOMINIUM ASSOCIATION, INC. Hereinafter the corporation shall be referred to as the "Association", with its principal place of business located at **699 Vivienda West Blvd., Venice, Florida 33595.**

ARTICLE II

The purpose for which the Association is organized is to provide an entity pursuant to Chapter 718, Florida Statutes, as amended to the date hereof, hereinafter called the "Condominium Act", for the operation of VIVIENDA WEST, a Condominium, to be created pursuant to the provisions of the Condominium Act.

ARTICLE III

The powers of the Association shall include and be governed by the following provisions:

3.1 The Association shall have all of the common law and statutory powers of a corporation not for profit and not in conflict with the terms of these Articles of Incorporation or the Condominium Act.

3.2 The Association shall have all of the powers and duties set forth in the Condominium Act except as limited by these Articles of Incorporation and the Declaration of Condominium, and all of the powers and duties reasonably necessary to operate VIVIENDA WEST, a Condominium, pursuant to the Declaration thereof, and as they may be amended from time to time

3.3 All funds and the titles to all properties acquired by the Association, and their proceeds, shall be held in trust for the members in accordance with the provisions of the Declaration of Condominium, these Articles of Incorporation and the Bylaws of the Association.

3.4 The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration of Condominium and the Bylaws.

ARTICLE IV

4.1 The members of the Association shall consist of all of the record owners of condominium units in VIVIENDA WEST, a Condominium, hereinafter referred to as "Condominium Units", and after termination of a condominium shall consist of those who are members at the time of such termination, and their successors and assigns.

4.2 Membership shall be acquired by recording in the Public Records of Sarasota County, Florida, a deed or other instrument establishing record title to a condominium unit in VIVIENDA WEST, the owner designated by such instrument thus becoming a member of the Association, and the membership of the prior owner being thereby terminated, provided, however, any party who owns more than one unit shall remain a member of the Association so long as he shall retain title to or a fee ownership interest in any unit.

4.3 The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his unit.

4.4 On all matters upon which the membership shall be entitled to vote, there shall be one vote for each unit, which vote may be exercised or cast in such manner as may be provided in the Bylaws of the Association. Any person or entity owning more than one unit shall be entitled to one vote for each unit he owns, except as otherwise provided in the Bylaws.

ARTICLE V

The Association shall have perpetual existence.

ARTICLE VI

The names and addresses of the subscribers to these Articles of Incorporation are as follows:

<u>NAMES</u>	<u>ADDRESSES</u>
L. J. MCNEARY	896 Senda Oro Venice, Florida 33595
MAUREEN SCHWEICKERT	1279 Thoreau Circle Venice, Florida 33595
LEON E. SCHWEICKERT	1279 Thoreau Circle Venice, Florida 33595

ARTICLE VII

The affairs of the Association shall be administered by a President, a Vice-President, a Secretary and a Treasurer, and such Assistant Secretaries and Assistant Treasurers as the Board of Directors may from time to time designate. Any person may hold two offices, excepting that the same person shall not hold the office of President and Vice-President. Officers of the Association shall be elected by the Board of Directors at its first meeting following the annual meeting of the members of the Association, and shall serve at the pleasure of the Board of Directors. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:

<u>NAMES</u>	<u>OFFICE</u>	<u>ADDRESSES</u>
L. J. McNEARY	President	896 Senda Oro Venice, Florida 33595
MAUREEN SCHWEICKERT	Vice President	1279 Thoreau Circle Venice, Florida 33595
LEON E. SCHWEICKERT	Secretary/ Treasurer	1279 Thoreau Circle Venice, Florida 33595

ARTICLE VIII

8.1 The affairs of the Association shall be managed by a Board of Directors. The number of persons which shall constitute the entire Board of Directors shall be not less than three (3) nor more than five (5).

(a) All members of the Board of Directors shall be members of the Association.

8.2 The first annual membership meeting shall be held in November of the year following the date upon which the Declaration of Condominium of VIVIENDA WEST, a Condominium, has been filed in the Public Records of Sarasota County, Florida.

8.3 The names and addresses of the members of the first Board of Directors who shall hold office until their successors are elected and have qualified, or until removed, are as follows:

<u>NAMES</u>	<u>ADDRESSES</u>
L. J. McNEARY	896 Senda Oro Venice, Florida 33595
MAUREEN SCHWEICKERT	1279 Thoreau Circle Venice, Florida 33595
LEON E. SCHWEICKERT	1279 Thoreau Circle Venice, Florida 33595

ARTICLE IX

Every Director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding or the settlement of any proceeding to which he may be a party, or in which he may become involved by reason of his being or having been a Director or Officer of the Association, whether or not he is a Director or Officer at the time such expenses are incurred, except when the Director or Officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties. The foregoing right of indemnification shall be in addition to and exclusive of all other rights and remedies to which such Director or Officer may be entitled.

ARTICLE X

The Bylaws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded in the manner provided therein.

ARTICLE XI

11.1 In any legal action in which the Association may be exposed to liability in excess of the insurance coverage protecting it and its members, the Association shall give notice of the exposure within a reasonable time to all members who may be exposed to the liability, whereupon such members shall have the right to intervene and defend in such action.

11.2 The Association shall maintain accounting records according to good accounting practices which shall be open to inspection by members or their duly authorized representatives at reasonable times, and written summaries which shall be supplied at least annually to members or their duly authorized representatives.

ARTICLE XII

Amendments to these Articles of Incorporation shall be proposed and adopted in the following manner:

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

12.2 A resolution for the adoption of a proposed amendment may be proposed by the Board of Directors of the Association or

by the members of the Association. Members may propose such an amendment by instrument in writing directed to the President or Secretary of the Board signed by not less than ten (10%) percent of the membership. Amendments may be proposed by the Board of Directors by action of a majority of the Board at any regularly constituted meeting thereof. Upon an amendment being proposed as herein provided, the President, or, in the event of his refusal or failure to act, the Board of Directors shall call a meeting of the membership to be held not sooner than fifteen (15) days nor later than sixty (60) days thereafter for the purpose of considering such amendment. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing provided such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be either by:

(a) Not less than sixty-six and two thirds (66 2/3%) percent of the entire membership of the Board of Directors and by not less than fifty-one (51%) percent of the votes of the entire membership of the Association; or

(b) Not less than sixty-six and two thirds (66 2/3%) percent of the votes of the entire membership of the Association.

12.3 Provided, however, that no amendment shall make any changes in the qualifications for membership nor the voting rights of the members, nor any change in Section 3.3 of Article III, without approval in writing by all members and the joinder of all record owners of mortgages on the condominium units.

12.4 A copy of each amendment shall be filed with the Secretary of State, pursuant to the provisions of the applicable Florida Statutes, and a copy certified by the Secretary of State shall be recorded in the Public Records of Sarasota County, Florida.

ARTICLE XIII

Whenever referred to in these Articles of Incorporation the term "Developers" shall refer to McNEARY REALTY CO., a Missouri corporation, and SCHWEICKERT HOMES, INC., a Florida corporation.

The term "Units that will be ultimately operated by the Association" shall refer to the fifty (50) condominium units to be constructed as part of VIVIENDA WEST, a Condominium.

ARTICLE XIV

The Resident Agent to accept service of process within this State for said corporation shall be ROBERT J. CARR, 720 South Orange Avenue, Sarasota, Florida 33577.

Having been named to accept service of process for the above-stated corporation at the place designated herein, I hereby accept to act in this capacity, and agree to comply with the provision of said Act relative to keeping open said office.

Robert J. Carr
ROBERT J. CARR

IN WITNESS WHEREOF, the Subscribers have affixed their signatures hereto this 13 day of January, 1978.

L. J. McNeary (SEAL)
L. J. McNEARY

Maureen Schweickert (SEAL)
MAUREEN SCHWEICKERT

Leon E. Schweickert (SEAL)
LEON E. SCHWEICKERT

STATE OF FLORIDA
COUNTY OF SARASOTA

BEFORE ME, the undersigned authority, personally appeared L. J. McNEARY, MAUREEN SCHWEICKERT and LEON E. SCHWEICKERT, who after being duly sworn, acknowledged that they executed the foregoing Articles of Incorporation for the purposes expressed herein, this 13 day of January, 1978.

Anne Thomas
Notary Public
My Commission Expires: 10/21/80

AMENDED
DECLARATION OF CONDOMINIUM
OF
VIVIENDA WEST
a Condominium

MADE by the undersigned Developers, for themselves, their successors, grantees and assigns.

The undersigned Developers, being the owners of fee simple title of record to those certain lands located and situate in Sarasota County, Florida, being more particularly described in an Exhibit "A" attached hereto, do hereby submit the said lands and improvements thereon to condominium ownership pursuant to the presently existing provisions of Chapter 718 of the Florida Statutes 1976, hereinafter called the "Condominium Act".

1. The name by which this condominium is to be identified is VIVIENDA WEST, a Condominium.

2. Definitions. The terms used in this Declaration and in its exhibits, including the Articles of Incorporation and Bylaws of VIVIENDA WEST CONDOMINIUM ASSOCIATION, INC., shall be defined in accordance with the provisions of the Condominium Act, and as follows, unless the context otherwise requires:

2.1 Unit means unit as defined by the Condominium Act.

2.2 Unit owner means unit owner as defined by the Condominium Act.

2.3 Association means VIVIENDA WEST CONDOMINIUM ASSOCIATION, INC., and its successors.

2.4 Condominium unit owner means the owner of a condominium unit.

2.5 Common elements shall include:

(a) All of those items stated in the Condominium Act;

(b) Tangible personal property required for the maintenance and operation of the condominium even though owned by the Association;

Prepared by
Phillip A. Wolff, Esq.
710 S. ORANGE AVE.

(c) All condominium property not included in the units;

(d) Easements as set forth herein.

2.6 Common Expenses. The common expenses shall include:

(a) Costs of operation, maintenance, repair and replacement of the common elements and limited common elements;

(b) Costs of management of the condominium and administrative costs of the Association including professional fees and expenses;

(c) Costs of water and sewerage service, electricity and other utilities which are not metered to the individual condominium units;

(d) Labor, material and supplies used in conjunction with the common elements;

(e) Damages to the condominium property in excess of insurance coverage;

(f) Salary of a general manager, if deemed desirable by the membership, and his assistants and agents;

(g) Premium costs of fire, windstorm, flood and other property insurance and liability insurance as provided herein on common elements only;

(h) All other expenses that may be duly incurred by the Association through its board of directors from time to time in operating, protecting, managing and conserving the condominium property and in carrying out its duties and responsibilities as provided by the Condominium Act, this Declaration, the Articles of Incorporation or the Bylaws.

2.7 Utility services shall include, but not be limited to electric power, gas, water, air conditioning, and garbage and sewage disposal and cable television services.

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2.8 Developers mean McNEARY REALTY COMPANY, a Missouri corporation, and SCHWEIKERT HOMES, INC., a Florida corporation.

3. Condominium Description:

3.1 Survey and Plot Plan. A survey of the land subject to this condominium and a graphic description of the improvements and a plot plan locating the improvements thereon, and identifying each unit and the common elements and their relative locations and approximate dimensions are attached hereto, incorporated herein and marked Exhibit "A". The condominium units shall be known and numbered as described in said Exhibit "A".

3.2 Units. A unit shall consist of a numbered lot shown on the plot plan in Exhibit "A" together with all improvements located thereon. Units shall each be given the same number as the particular lot upon which the improvements are located. All units, as defined in this Declaration, shall be the subject of private ownership. Ownership of a unit extends between the planes of the perimetrical boundaries shown for the respective lots shown in Exhibit "A" and from the plane of the ground surface of said particular lot to a horizontal plane located 25 feet above and directly over said ground surface. In the event that the actual physical location of any improvement at any time does not precisely coincide with Exhibit "A" and subsequent amendments, the actual physical locations shall control over the locations, dimensions and descriptions contained in Exhibit "A" and subsequent amendments. Thus, where there is a wall on a perimetrical boundary, the boundary shall extend to the centerline of said wall. Where a wall, overhang or part of a dwelling encroaches on to the common elements, the boundary of the unit shall be such as to include such structure.

3.3 Proviso. (omitted)

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3.4 Easements are expressly provided for and reserved as follows:

(a) Utility Easements. Developers hereby reserve for and on behalf of itself and VIVIENDA WEST CONDOMINIUM ASSOCIATION, INC., perpetual easements for the installation, construction, repair, maintenance and replacement of private and public utility lines and services of all kinds under and over the surface of the condominium lands which are not occupied by buildings or other structures. Utility easements may be granted by the Developers or VIVIENDA WEST CONDOMINIUM ASSOCIATION, INC. to any public or private utilities as may be necessary or desirable to provide utility services to any of the foregoing. All public and private utility companies rendering utility services to this condominium shall have a perpetual nonexclusive easement over, across, under and through all of the common land areas of the condominium for the purpose of construction, installation, maintenance, repair and replacement of the utilities servicing this condominium and for the purpose of reading meters in connection therewith.

(b) Encroachments. In the event that any unit shall encroach upon any of the common elements or upon any other unit for any reason other than the intentional or negligent act of the unit owner, or in the event any common element shall encroach upon any unit, then an easement shall exist to the extent of such an encroachment so long as the same shall exist.

(c) Traffic. An easement shall exist for pedestrian traffic over, through and across sidewalks, paths, walks, and other portions of the common elements as may be from time to time intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through and across such portions of the common elements as may from time to time be paved and intended for such purposes, and such easement shall be for the use and benefit of the unit owners, and all those claiming by, through or under the aforesaid; provided, however, nothing herein shall be construed to give or create in any person the right to

park upon any portion of the condominium property except to the extent that space may be specifically designated and assigned for parking purposes.

4. Appurtenances to Condominium Units. The owner of each condominium unit shall own an undivided share and certain interest in the condominium property, which share and interest shall be appurtenant to the condominium unit, said undivided interest in the condominium property and common elements being as follows: an undivided 1/50th share or 2% to each condominium unit.

5. Liability for Common Expenses. Each condominium unit 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 condominium unit.

6. Membership in Association. Membership of each condominium unit owner in the Association shall be acquired pursuant to the provisions of the Articles of Incorporation and Bylaws of the Association. The interest of each condominium unit owner in the funds and assets of the condominium held by the Association shall be in the same proportion as the liability of each owner for common expenses.

7. Maintenance, Repair and Replacement. Responsibility for the maintenance, repair and replacement regarding the condominium property is as follows:

7.1 By the Association. The Association shall maintain, repair and replace as part of the common expense all of the common elements as defined herein. The Association shall have the irrevocable right to have access to each condominium unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any common elements therein or accessible therefrom, and during any hours for performing such emergency repairs or procedures therein as may be necessary to prevent damage to the common elements or to another condominium unit. Damages caused to a condominium unit or its contents due to known and unknown defects in the common elements, or resulting from casualty loss, or due to water, heat, steam, smoke or other intrusion into the unit from or through the common elements to another unit shall be repaired, replaced or compensated for by the Association as part of the common expense, except to the extent such damage is covered by insurance maintained by the condominium unit owner. The condominium unit owner's insurer shall not have a right of subrogation for such damages against the Association.

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7.2 By the Condominium Unit Owner. Each condominium unit owner shall maintain, repair and replace everything within the confines of his condominium unit which is not part of the common elements or limited common elements as defined herein, including but not limited to:

(a) Paint, finish, covering, wallpaper and decoration of all walls, floors and ceiling;

(b) All built-in shelves, cabinets, counters, storage areas, and closets;

(c) All mechanical, ventilating, heating and air conditioning equipment serving the individual condominium unit (whether located within the boundaries of the respective unit or not); any refrigerators, stoves, ovens, disposals, dishwashers and other kitchen equipment; all bathroom fixtures, equipment and apparatus;

(d) All electrical, plumbing, telephone and television fixtures, apparatus, equipment, outlets, switches, wires, pipes and conduits serving only the respective condominium unit; all electric lines between the condominium unit and its individual service panel or meter, and all water and waste lines between the condominium unit and the main distribution lines;

(e) All interior doors, walls, partitions, and room dividers;

(f) All furniture, furnishings and personal property contained within the respective condominium unit; and

(g) All exterior doors, windows and screening, which shall be maintained in such manner as to preserve a uniform appearance to the exterior of the building.

In the event a condominium unit owner fails to properly maintain and repair his condominium unit, the Association, at the discretion of the board of directors, may make such repairs as the board may deem necessary and the cost thereof shall be assessed against such defaulting condominium unit owner. The Association shall have a lien against a condominium unit for the cost of any repairs it shall make thereto, to the same extent as is provided by the Condominium Act for unpaid assessments, plus interest at the **highest rate allowed by law** and reasonable attorneys' fees incurred by the Association in the collection thereof.

8. Assessments. The Association shall fix and determine from time to time the sum or sums of money necessary and adequate to provide for the common expenses and shall assess the members for said sums. If possible, the amount of said expenses will be fixed and determined in advance for each fiscal year. The procedure for the determination of such assessments shall be set forth in the Bylaws of the Association. The Association, from time to time, shall be obligated to assess condominium unit owners and/or condominium units in amounts no less than are required to provide funds in advance for the payment of all common expenses and other expenses of the Association and the condominium, as and when due, and to enforce collection of same so that at all times the solvency of the Association, under any definition, is maintained and assured.

8.1 Interest; Application of Payments. Assessments and installments on such assessments paid on or before ten (10) days after the date when due shall not bear interest, but all sums not paid on or before ten (10) days after the date when due shall bear interest at the highest rate allowed by law from the date when due until paid. All payments on account shall be first applied to interest, and then to the assessment payment first due.

8.2 Lien for Assessments. The Association shall have a lien against each condominium unit for any unpaid assessments against the owner thereof, and for interest accruing thereon, which lien shall also secure reasonable attorneys' fees incurred by the Association incident to the collection of such assessment or enforcement of such lien, whether or not legal proceedings are initiated. The said lien may be recorded among the public records of Sarasota County, Florida by filing a claim therein which states the legal description of the condominium unit, and the amount claimed to be due, and said lien shall continue in effect until all sums secured by the lien, together with all costs incurred in recording and enforcing said lien, shall have been paid. Such claims of lien may be signed and verified by an officer of the Association, or by a managing agent of the Association. Upon full payment the party making payment shall be entitled to a recordable satisfaction of lien, to be prepared and recorded at his expense. All such liens shall be subordinate to the lien of institutional first mortgages recorded prior to the date of recording the claim of lien, and all such liens may be foreclosed by suit brought in the name of the Association in like manner as a foreclosure of a mortgage on real property. The Association may also, at its option, sue to recover a money judgment for unpaid assessments without thereby waiving the lien securing the same. In the event a mortgagee of a first mortgage of record shall obtain title

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to the condominium unit as a result of the foreclosure of a first mortgage, or in the event an institutional mortgagee as to a first mortgage of record shall obtain title to a condominium unit as the result of a conveyance in lieu of foreclosure of such first mortgage, such acquirer of title, its successors and assigns, shall not be liable for that share of the common expenses or assessments by the Association chargeable to the condominium unit, or the owner thereof, which became due prior to the acquisition of title by such institutional mortgagee or purchaser at foreclosure sale, and any such unpaid share of common expenses, or assessments, chargeable against any such foreclosed condominium unit, or against a condominium unit transferred in lieu of foreclosure, shall be deemed a common expense, to be paid in the same manner as other common expenses of the condominium by all of the condominium unit owners.

8.3 Notification to Mortgage Holder. The Association shall notify, in writing, the holder of a first mortgage encumbering a condominium unit of any default in the payment of any assessments against said condominium unit where said default shall continue for a period of thirty (30) days after the date upon which it was due and payable; provided, however, notice of such default need only be given where the holder of a first mortgage has notified the Association, in writing, of the existence thereof, such notice to include the name and address of the mortgagee.

8.4 Where an Institutional First Mortgagee of record or other purchaser of a condominium parcel obtains title thereto as a result of the foreclosure of an institutional first mortgage or where said institutional first mortgagee, such acquirer of the title, his heirs, legal representatives and assigns, shall not be liable for the share of common expenses or assessments by the Association pertaining to

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such condominium parcel or chargeable to the former condominium unit owner of such parcel which became due prior to acquisition of title thereto as a result of the foreclosure or the acceptance of such deed in lieu of foreclosure. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the condominium unit owners including such acquirer, his heirs, legal representatives, successors and assigns; or if there are sufficient funds then such common expenses and/or assessments shall be paid out of the proceeds of the foreclosure sale or sale pursuant to the acquisition by the institutional first mortgagee.

9. Association. The operation of the condominium shall be by VIVIENDA WEST CONDOMINIUM ASSOCIATION, INC., a corporation not for profit under the laws of the State of Florida, which shall fulfill its functions pursuant to the following provisions:

9.1 Articles of Incorporation. A copy of the Articles of Incorporation of the Association, which sets forth its powers and duties, is attached as an Exhibit "B".

9.2 Bylaws. A copy of the Bylaws of the Association is attached as an Exhibit "C".

9.3 Limitation upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair portions of the condominium property, the Association shall not be liable to condominium unit 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.

9.4 Restraint upon Assignment of Shares and Assets. The share of a member in the funds and assets of the Association cannot and shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to his condominium unit.

9.5 Approval or Disapproval of Matters. Whenever the decision of a condominium unit 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 condominium unit owner if in an Association meeting, unless the joinder of record owners is specifically required by this Declaration.

10. 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:

10.1 Coverage.

(a) Each unit owner shall, at his expense, cause all improvements located within his particular unit to be insured in an amount equal to the maximum insurable replacement value of said improvements, excluding foundation costs, and all personal property included in said improvements shall be insured for its value. Such coverage shall afford protection against:

(1) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement and to losses or damage due to vandalism and malicious mischief.

(b) The Association shall purchase 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 and non-owned automobile coverages, and with cross liability endorsement to cover liabilities of the apartment owners as a group to an apartment owner.

(c) The Association shall purchase workmen's compensation policy to meet the requirements of law.

(d) The Association shall purchase such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

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

10.3 In the event of damage by fire or other hazards, the individual unit owner shall be obligated to rebuild his particular condominium unit in conformance to the size and exterior elevation as it was prior to destruction.

11. Reconstruction or Repair after Casualty.

11.1 Reconstruction and Repair. If any part of the condominium property shall be damaged by casualty, it shall be reconstructed or repaired immediately unless it is determined in the manner elsewhere provided that the condominium shall be terminated.

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11.2 Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the original plans and specifications for such improvements, or if not, then according to plans and specifications approved by the Board of Directors of the Association and institutional first mortgagees holding mortgages on the units involved.

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

11.4 Estimates 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 rebuild or repair.

11.5 Assessments. In the case of damage or destruction to property for which the Association has the responsibility for maintenance and repair, 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, the funds for the payment of the costs thereof are insufficient, the Association shall pay over sufficient amounts to provide funds to pay the estimated costs, as part of the common expenses of the Association to be assessed against unit owners.

11.6 Construction Funds. In the case of damage or destruction to property for which the Association has the responsibility for maintenance and repair, the funds for payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance and funds collected by the Association from assessments against unit owners, if any, shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association. In such instance, the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds, and if there is a balance in the construction fund after payment of all costs of reconstruction and repair for which the fund is established, such balance shall be distributed to the Association as common surplus.

12. Use Restrictions. The use of the condominium property shall be in accordance with the following provisions so long as the condominium exists:

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12.1 Specific Use Restrictions. No owner, tenant or other occupant shall:

(a) Use the unit for single family residence purposes with no more than four (4) people residing in one unit at a time. No one under the age of 16 years may reside in a unit provided however, that the Board of Directors may make exception to this age restriction under extraordinary circumstances.

(b) 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;

(c) Permit loud and objectionable noises or obnoxious odors to emanate from the unit, nor play any organ or electronically amplified musical instruments or devices which may cause a nuisance to the occupants of other units in the sole opinion of the board;

(d) Paint or otherwise change the appearance of any exterior wall, door, window, patio, balcony or any exterior surface; place any sunscreen, blind or awning on any balcony or exterior opening; place any draperies or curtains at the windows of any unit facing the exterior of the unit without a solid, light color liner acceptable in color to the board of directors; tint, color or otherwise treat or apply anything to any window which will adversely affect the uniform exterior appearance of the building in the opinion of the board; plant any planting outside of a unit except upon written approval of the landscaping plan by the board of directors of the Association; erect any exterior lights or signs; place any signs or symbols in windows; erect or attach any structures or fixtures within the common elements; nor any of the foregoing without the prior written consent of the board of directors;

(e) Erect, construct or maintain any wire, antennas, garbage or refuse receptacles, or other equipment or structures on the exterior of the building or on or in any of the common elements, except with the written consent of the board of directors;

(f) Make any use of a unit which violates any laws, ordinances or regulations of any governmental body;

(g) Fail to conform to and abide by the Bylaws and the uniform rules and regulations in regard to the use of the units and the common elements which may be adopted from time to time by the board of directors, or fail to allow the board of directors or its designated

agent to enter the unit at any reasonable time to determine compliance with the condominium Act, this Declaration, or the Bylaws and regulations of the Association;

(h) Permit or suffer anything to be done or kept in his Condominium unit or in the common elements which will increase insurance rates on any unit or on the common property;

(i) Divide or subdivide a unit for purpose of sale or lease except to the owner of an adjacent unit, however a unit may be combined with an adjacent unit and occupied as one unit;

(j) Commit or permit any nuisance, immoral or illegal act in his unit or in or on the common elements;

(k) Hang any laundry, garments or other unsightly objects which are visible outside of the unit;

(l) Obstruct the common way of ingress or egress to the other units or the common elements;

(m) Allow anything to remain in the common areas which would be unsightly or hazardous;

(n) Allow any rubbish, refuse, garbage or trash to accumulate in places other than the receptacles (garbage cans) provided therefor, and each unit and the common elements shall at all times be kept in a clean and sanitary condition;

(o) Allow any fire or health hazard to exist;

(p) Allow any animals to be kept in the unit other than one cat or one small dog as defined by the rules and regulations of the board of directors of the Association, and birds and fish, provided that in the event any become a nuisance to the other unit owners in the sole opinion of the board of directors, such animals shall be removed from the unit immediately; or allow any authorized pets to use the common areas except when on a leash accompanied by its owner and then only so long as the pet does not make a mess or otherwise disturb the common areas;

(q) Enclose the entranceway, patio, porch or interior garden except with the written consent of the board of directors;

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(r) Lease less than an entire unit or lease an entire unit for a period of less than one year so that the high quality of this condominium shall be maintained and shall not become lodging facilities for transients;

(s) Park other than non-commercial vehicles in any parking area except service vehicles during the time they are actually serving the unit or common elements; all recreational vehicles, trucks, golf carts, boats and trailers, are prohibited from parking on the condominium property, including the common elements or unit areas, unless parked in a completely enclosed garage or storage area;

AMENDMENT
including
motor cycles +
scooters.

(t) Make use of the common elements in such a manner as to abridge the equal rights of the other unit owners to their use and enjoyment.

(u) No unit owner may be visited by anyone under the age of 16 years in excess of forty-five (45) days in any calendar year provided however, that the Board of Directors may make exception to this time limitation under extraordinary circumstances.

13. Maintenance of Community Interests. In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the condominium units, the transfer of condominium units by any owner other than the Developers shall be subject to the following provisions as long as the condominium exists:

13.1 Transfers Subject to Approval.

(a) Sale. No condominium unit owner may dispose of a unit or any interest in a condominium unit by sale without approval of the Association.

(b) Lease. No condominium unit owner may lease a condominium unit without approval of the Association, except with the express written consent of the Board of Directors of the Association or of the Developers, and such consent when once given and relied upon in connection with the purchase and acquisition of a condominium unit may not thereafter be revoked or terminated without the consent of the condominium unit owner.

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

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

(e) Other Transfers. If any condominium unit owner shall acquire his title by any manner not considered in the foregoing subsections, the continuance of his ownership of his condominium unit shall be subject to the approval of the Association.

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

(a) Notice to Association.

(1) Sale. A condominium unit owner intending to make a bona fide sale of his condominium unit 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 condominium unit owner's option, may include a demand by the condominium unit owner that the Association furnish a purchaser of the condominium unit if the proposed purchaser is not approved; and if such demand is made, the notice shall be accompanied by a copy of the proposed contract of sale signed by the proposed purchaser.

(2) Lease. A condominium unit owner intending to make a bona fide lease of his condominium unit 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 a copy of the proposed lease signed by the proposed lessee.

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(3) Gift, Devise or Inheritance; Other Transfers. A condominium unit 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 condominium unit 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 the condominium unit, the Association, at its election and without notice, may approve or disapprove the transaction or ownership. If the Association disapproves the transaction of 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 any officer of the Association, in recordable form.

(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 any officer of the Association, in non-recordable form.

(3) Gift, Devise or Inheritance; Other Transfers. If the condominium unit 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 condominium unit owner's ownership of his condominium unit. If approved, the approval shall be stated in a certi-

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ificate executed by any officer of the Association in recordable form.

(c) Approval of Corporate Owner or Purchaser.

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

(d) Screening Fees. The Association may require the deposit of a reasonable screening fee simultaneously with the giving of notice of intention to sell or lease, or of transfer by gift, devise or inheritance, for the purpose of defraying the Association's credit and character report expenses in determining whether to approve or disapprove the transaction or continued ownership by a transferee, said screening fee to be a sum not to exceed Fifty Dollars (\$50.00).

13.3 Disapproval by Association. If the Association shall disapprove a transfer of ownership of a condominium unit, the matter shall be disposed of in the following manner:

(a) Sale. If the proposed transaction is a sale and if the notice of sale given by the condominium unit owner shall so demand, then within thirty (30) days after receipt of such notice and information the Association shall deliver or shall send by registered mail to the condominium unit owner an agreement to purchase the condominium unit signed by a purchaser approved by the Association, or an agreement to purchase signed in behalf of the Association by its president and attested by its secretary, in which event the condominium unit owner shall sell the condominium unit to the named purchaser at the price and upon the terms stated in the disapproved contract to sell, excepting that at the option of the named purchaser the purchase price may be in cash at closing.

(1) The sale shall be closed within thirty (30) days after delivery or mailing of the agreement to purchase or upon the date designated in the disapproved contract, whichever date shall be later.

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(2) A certificate of the Association executed by any of its officers in recordable form shall be delivered to the purchaser.

(3) If the Association shall fail to purchase or provide a purchaser upon demand of the condominium unit owner in the manner provided, or if the purchaser furnished by the Association shall default in his agreement to purchase, the proposed transaction shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided, in recordable form.

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

(c) Gift, Devise or Inheritance; Other Transfers. If the condominium unit 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 condominium unit owner of the notice and information required to be furnished the Association shall deliver or mail by registered mail to the condominium unit owner an agreement to purchase the condominium unit concerned by a purchaser approved by the Association who will purchase and to whom the condominium unit owner must sell the condominium unit upon the following terms:

(1) The sale price shall be the fair market value determined by agreement between the seller and the 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 (2) appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the condominium unit; 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. In any such action for specific performance the prevailing

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party shall be entitled to recover his reasonable attorneys' fees and court costs incurred.

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

(3) The sale shall be closed within thirty (30) days following determination of the sale price.

(4) A certificate of the Association executed by any of its officers in recordable form shall be delivered to the purchaser.

(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 disapproval such ownership shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided, in recordable form, to the condominium unit owner.

13.4 Mortgage. No condominium unit owner may mortgage his condominium unit nor any interest in it without approval of the Association except to a bank, life insurance company or a savings and loan association, or to a seller 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.

13.5 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, savings and loan association or other institution that acquires its title as a result of owning a mortgage loan upon the condominium unit 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 transfer, sale or lease by a bank, life insurance company, savings and loan association or other institution that so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires title to a condominium unit at a duly advertised public sale with open bidding as provided by law, such as, but not limited to, execution sale, foreclosure sale, judicial sale or tax sale.

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13.6 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, subject to the provisions of paragraph 13.9 hereof.

13.7 Recording Approval. Whenever in this section an approval in recordable form is required of the Association in connection with the sale, transfer or pledging of a condominium unit, it is understood and agreed that the said approval shall not be recorded except at the same time and simultaneously with the recording of the deed or mortgage, as appropriate, and at the option of the owner of the unit affected.

13.8 Notice of Lien or Suit.

(a) A condominium unit owner shall give notice in writing to the Association of every lien upon his condominium unit other than authorized mortgages, taxes and special assessments within five (5) days after attaching of the lien.

(b) Notice of Suit. A condominium unit owner shall give notice in writing to the Association of every suit or other proceeding which may affect the title to his condominium unit, such notice to be given within five (5) days after the condominium unit owner shall receive notice thereof.

(c) Failure to Comply. Failure to comply with this sub-section concerning liens will not affect the validity of any judicial sale.

13.9 Whenever in this section an approval is required of the Association in connection with the sale, transferring, leasing or pledging of any condominium unit, and such approval shall not have been obtained pursuant to the provisions hereof, failure upon the part of the Association to object in writing to such sale, transfer, leasing or pledging within ninety (90) days after the date thereof, or within thirty (30) days of the date upon which the purchaser, transferee or lessee shall take possession of the premises, whichever date shall be later, shall constitute waiver by the Association of the written consent otherwise required by this section.

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13.10 Anything herein to the contrary notwithstanding, at such time as the Developer no longer has the right to designate any member of the Board of Directors, the approval or disapproval of the Association to a proposed sale, lease or other transfer shall be determined by a committee of the board of directors and the action of such committee shall, for the purposes of this article, constitute the action of the Association.

14. Purchase of Condominium Units by Association. The Association shall have the power to purchase condominium units subject to the following provisions:

14.1 Decision. The decision of the Association to purchase a condominium unit shall be made by its directors, without the necessity of approval by its membership, except as is hereinafter expressly provided for.

14.2 Limitation. If at any time the Association shall be the owner or agreed purchaser of three (3) or more condominium units in the condominium, it may not purchase any additional condominium units therein without the prior written approval of seventy-five percent (75%) of the members eligible to vote. A member whose condominium unit is the subject matter of the proposed purchase shall be ineligible to vote thereon, provided, however, that the limitations hereof shall not apply to condominium units to be purchased at public sale resulting from a foreclosure of the Association's lien for delinquent assessments where the bid of the Association did not exceed the aggregate of the amounts due by virtue of any and all senior or superior liens against the condominium unit plus the amount due the Association, nor shall the limitation of this paragraph apply to condominium units to be acquired by the Association in lieu of foreclosure of such liens if the consideration therefor does not exceed the cancellation of such lien and the assumption of any existing mortgage indebtedness on the condominium unit.

15. Omitted

16. Compliance with Default. Each condominium unit owner shall be governed by and shall comply with the terms of the Declaration of Condominium, Articles of Incorporation, Bylaws, and the rules and regulations adopted pursuant to those documents, as they may be amended from time to time. Failure of a condominium unit owner to comply such such documents and regulations shall entitle the Association or any aggrieved condominium unit owner to the following relief in addition to remedies provided by the Condominium Act:

16.1 Negligence. A condominium unit 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. A condominium unit owner shall pay the Association the amount of any increase in its insurance premiums occasioned by use, misuse, occupancy or abandonment of a condominium unit of its appurtenances, or of the common elements by the ondominium unit owner.

16.2 Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a condominium unit owner or the Association to comply with the terms of the Declaration, Articles of Incorporation of the Association, the Bylaws, or the rules and regulations adopted pursuant to them, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding, and the Association, if it shall prevail, shall further be entitled to recover such reasonable attorneys' fees as may be awarded by the Court, provided, however, no attorneys' fees shall be recovered against the Association in any such action.

16.3 No Waiver of Rights. The failure of the Association or any condominium unit owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation of the Association, the Bylaws or the rules and regulations shall not constitute a waiver of the right to do so thereafter.

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

17.1 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 to be considered.

17.2 A Resolution for the adoption of a proposed amendment may be proposed by the board of directors of the Association or by those members of the Association owning condominium units in the condominium. Owners may propose such an amendment by instrument in writing directed to the president or secretary of the board signed by persons owning not less than ten percent (10%) of the condominium units in the condominium. Amendments may be proposed by the board of directors by action of a majority of the board at any regularly constituted meeting thereof. Upon an amendment being proposed as herein provided the president or, in the event of his refusal or failure to act, the vice president elected by the directors from the condominium, or, in the event of his refusal or failure to act, then the board of directors shall call a meeting of those members of the Association owning condominium units in the condominium to be held not sooner than fifteen (15) days nor later than sixty (60) days thereafter for the purpose of considering said amendment. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided such approval is delivered to the secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be either by:

(a) Not less than sixty-six and two-third (66 2/3%) percent of the entire membership of the Board of Directors and by not less than fifty-one (51%) percent of the votes of the members; or

(b) By not less than sixty-six and two thirds percent (66 2/3%) of the vote of the entire membership.

(c) In the alternative, an amendment may be made by an agreement signed and acknowledged by all condominium owners in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the Public Records of Sarasota County, Florida.

(d) The Bylaws shall be amended as provided therein.

17.3 Proviso. Provided, however, that no amendment shall discriminate against any condominium unit owner nor against any unit or class or group of units, unless the condominium unit owners so affected shall consent; and no amendment shall change any condominium unit nor the share in the common elements appurtenant to it, nor increase the condominium unit owner's share of the common expenses, unless the record owner of the condominium unit concerned and all record owners of mortgages on such condominium unit 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 such amendment.

17.4 Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, and the said certificate shall be executed by the president of the Association and attested by the Secretary with the formalities of a deed, and shall be effective upon recording thereof in the public records of Sarasota County, Florida.

18. Termination.

18.1 Termination. The condominium may be terminated only in the manner provided in the Condominium Act, except as provided in Section 18.2.

18.2 Amendment. The section concerning termination cannot be amended without consent of all unit owners and of all record owners of mortgages upon units.

19. Severability. The invalidity in whole or in part of any covenant or restriction, or any section, sub-section, sentence, clause, phrase or word, or other provisions of this Declaration of Condominium and the Articles of Incorporation, Bylaws and rules and regulations of the Association shall not affect the validity of the remaining portions.

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed in its name by its corporate officer and its corporate seal affixed hereto this 5th day of May, 1978.

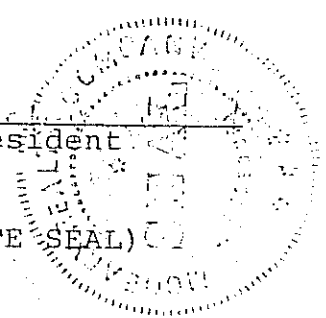
Signed, sealed and delivered in the presence of:

[Signature]
[Signature]

McNEARY REALTY COMPANY, a Missouri corporation

By [Signature] As President

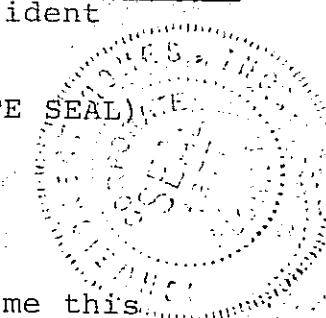
(CORPORATE SEAL)



SCHWEICKERT HOMES, INC., a Florida corporation

By [Signature] As President

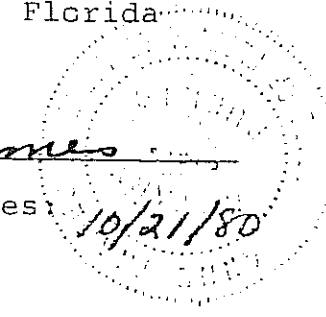
(CORPORATE SEAL)



STATE OF FLORIDA
COUNTY OF SARASOTA

5th The foregoing instrument was acknowledged before me this 5th day of May, 1978 by MAUREEN M. SCHWEICKERT as President of McNEARY REALTY COMPANY, a Missouri corporation, on behalf of the corporation, and by LEON E. SCHWEICKERT as President of SCHWEICKERT HOMES, INC., a Florida corporation, on behalf of the corporation.

Anne Thomas
Notary Public
My Commission Expires 10/21/80



1235 891

JOINDER OF ASSOCIATION

VIVIENDA WEST CONDOMINIUM ASSOCIATION, INC., a Florida non-profit corporation, hereby joins in and consents to the foregoing Declaration of Condominium and hereby agrees to the provisions thereof and assumes the obligations imposed upon it therein.

IN WITNESS WHEREOF, the undersigned has caused this joinder to be executed in its name by its duly authorized officer and caused its corporate seal to be hereunto affixed this 5th day of May, 1978.

Signed, sealed and delivered in the presence of:

VIVIENDA WEST CONDOMINIUM ASSOCIATION, INC.

A. J. Foster
Secretary

By L. J. McNeary
As President

STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 5th day of May, 1978 by L. J. McNEARY as President of VIVIENDA WEST CONDOMINIUM ASSOCIATION, INC., a Florida non-profit corporation, on behalf of the corporation.

Anne Thames
Notary Public
My Commission Expires: 10/21/80

1235 # 802

CONSENT OF MORTGAGEE

The undersigned owner and holder of a mortgage lien upon the premises described in Exhibit "A" attached hereto hereby consents to the submission of said lands to condominium ownership in accordance with the terms and provisions of the foregoing Declaration of Condominium.

Signed, sealed and delivered in the presence of: COAST FEDERAL SAVINGS AND LOAN ASSOCIATION

By _____ As _____ President

STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this _____ day of _____, 197__, by _____ as _____ President of COAST FEDERAL SAVINGS AND LOAN ASSOCIATION, a United States corporation, on behalf of the corporation.

Notary Public
My Commission Expires:

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BYLAWS

OF

VIVIENDA WEST CONDOMINIUM ASSOCIATION, INC

a corporation not for profit
under the laws of the State of Florida

1. Identity. These are the Bylaws of VIVIENDA WEST CONDOMINIUM ASSOCIATION, INC., hereinafter called the "Association", a corporation not for profit under the laws of the State of Florida, organized pursuant to the provisions of Chapter 718, Florida Statutes, as amended to the date hereof, hereinafter referred to as the "Condominium Act".

1.1 The office of the Association shall be at 699 Vivienda West Blvd., Venice, Florida 33595.

1.2 The fiscal year of the Association shall be the calendar year unless otherwise designated by the Board of Directors.

1.3 The seal of the Association shall bear the name of the corporation, the word, "Florida", the words, "Corporation not for profit", and the year of incorporation.

2. Members' meetings.

2.1 The annual members' meeting shall be held during the month of January of each year in Sarasota County, Florida, on a day and at a place and time to be selected by the Board of Directors. The purpose of the annual meeting shall be for the election of Directors and transacting any other business authorized to be transacted by the membership; provided, however, that if that day is a legal holiday, the meeting shall be held at the same hour on the next day that is not a holiday.

2.2 Special members' meetings shall be held whenever called by such officers upon receipt of a written request from members entitled to cast fifty-one (51%) percent of the votes of the entire membership.

2.3 Notice of all members' meetings stating the time and place and the object for which the meeting is called shall be given by the President or Vice-President or Secretary unless waived in writing. Unless a unit owner waives in writing the right to receive notice of the annual meeting by mail, the notice of the annual meeting shall be sent by mail

to each unit owner, not less than fourteen (14) nor more than forty-five (45) days prior to the date of the meeting, and the post office certificate of mailing shall be retained as proof of such mailing. Proof of such mailing shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings. Notice of meetings shall be posted conspicuously on the condominium property not later than fourteen (14) days in advance of such meeting for the members' attention.

2.4 A quorum at members' meetings shall consist of persons entitled to cast a majority of the votes of the entire membership. The acts approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the members, except when approval by a greater number of members is required by the Declaration of Condominium, the Articles of Incorporation, or these Bylaws.

2.5 Voting.

(a) In any meeting of members the owners of condominium units shall be entitled to cast one vote for each condominium unit owned.

(b) If a condominium unit is owned by one person his right to vote shall be established by the record title to his unit. If any condominium unit is owned by more than one person, or is under lease, the person entitled to cast the vote for the condominium unit shall be designated by a certificate signed by all of the record owners of the condominium unit and filed with the Secretary of the Association. If a condominium unit is owned by a corporation, the person entitled to cast the vote for the condominium unit shall be designated by a certificate signed by the President or Vice-President and attested by the Secretary or Assistant Secretary of the corporation and filed with the Secretary of the Association. Such certificates shall be valid

until revoked or until superseded by a subsequent certificate or until a change in the ownership of the condominium unit concerned. A certificate designating the person entitled to cast the vote of a condominium unit may be revoked by any owner of a condominium unit. If such a certificate is not on file, **any owner in attendance at the meeting shall cast a vote or if more than one owner is in attendance, the owner designated by those in attendance shall cast a vote.**

2.6 Proxies. Votes may be cast in person or by proxy. A proxy may be made by any person entitled to vote and shall be valid only for the particular meeting designated in the proxy and must be filed with the Secretary before the appointed time of the meeting or any adjournment of the meeting.

2.7 Adjourned Meetings. If any meeting of the 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.

2.8 The order of business at annual members' meetings, and as far as practical at other members' meetings, shall be:

- (a) Calling of the roll and certifying of proxies.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading and disposal of any unapproved minutes.
- (d) Reports of officers.
- (e) Reports of committees.
- (f) Appointment of inspectors of election.
- (g) Election of directors.
- (h) Unfinished business.
- (i) New business.
- (j) Adjournment.

2.9 Election of New Directors. Within sixty (60) days after unit owners other than the Developer are entitled to elect a member or members of the Board of Directors, the

Association shall call and give not less than thirty (30) days nor more than forty (40) days notice of a membership meeting to be held for the purpose of electing such new director(s). Such meeting may be called and a notice given by any unit owner if the Association shall fail to do so in the time required.

2.10 Turnover Meeting. Not later than sixty (60) days after unit owners other than the Developer elect a majority of the members of the Board of Directors, a membership meeting shall be held for the purpose of allowing the Developer to relinquish control of the Association to the members and to deliver to the Association the property of the unit owners and of the Association held by or controlled by the Developer.

2.11 Minutes. Minutes of all meetings of unit owners shall be kept in a business-like manner and available for inspection by unit owners and board members at all reasonable times.

3. Directors.

3.1 Membership. All members of the Board of Directors elected by unit owners other than the Developers shall be members of the Association.

3.2 Election of Directors shall be conducted in the following manner:

(a) Election of Directors shall be held at the annual members' meeting, subject to the provisions of sub-paragraph 3.2(f) and subparagraph 2.9 hereof.

(b) The Board of Directors may, at its discretion, designate a nominating committee of not less than three (3) nor more than five (5) members. In the event the Board shall elect to designate such committee, such designation shall be made not less than thirty (30) days prior to the annual election meeting, and each such

committee shall be charged with the duty of nominating one person for each Director to be elected from the Condominium represented by the nominating committee, provided, however, additional nominations from condominium owners shall be received from the floor prior to elections at the annual election meeting.

(c) The election shall be by ballot (unless dispensed with by unanimous consent) and by a plurality of the votes cast, each person voting being entitled to cast his vote for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

(d) Except as to vacancies created by removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining Directors.

(e) Any Director may be removed by concurrence of two thirds (2/3) of the vote of the condominium owners at a special meeting called for that purpose. The vacancy in the Board of Directors so created shall be filled by the members at the same meeting.

3.3 The term of each director's service, subject to the provisions of 3.2(e) and 3.2(f) above, shall extend until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided.

3.4 The organization meeting of a newly-elected Board of Directors shall be held within ten (10) days of their election at such place and times as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organization meeting shall be necessary.

3.5 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. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegraph, at least three (3) days prior to the day named for such meeting.

3.6 Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of one-third (1/3) of the Directors. Not less than three (3) 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.

3.7 Waiver of notice. Any Director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

3.8 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 a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Declaration of Condominium, the Articles of Incorporation, or these Bylaws.

3.9 Adjourned meetings. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. No further notice need be given of an adjourned meeting.

3.10 Joinder in meeting by approval of minutes. The joinder of a Director in the action of a meeting by signing and concurring in the minutes of that meeting shall constitute the presence of such Director for the purpose of determining a quorum.

3.11 The presiding officer of Directors' meetings shall be the Chairman of the Board if such an officer has been elected; and if none, the President shall preside. In the absence of the presiding officer the Directors present shall designate one of their number to preside.

3.12 The order of business at Directors' meetings shall be:

- (a) Calling of roll.
- (b) Proof of due notice of meeting.

- (c) Reading and disposal of any unapproved minutes.
- (d) Reports of officers and committees.
- (e) Election of Officers.
- (f) Unfinished business.
- (g) New Business.
- (h) Adjournment.

3.13 Directors' fees, if any, shall be determined by members of the Association, and approval of any such fees shall require the affirmative vote of not less than two-thirds (2/3) of the entire membership of the Association, provided, Directors designated by the Developer, and the first Board of Directors, shall not be entitled to any fees or compensation for their services as Directors.

3.14 Minutes. Minutes of all meetings of Directors shall be kept in a business-like manner and available for inspection by unit owners and Board members at all reasonable times.

3.15 Open meetings. Except in emergency situations, meetings of the Board of Directors shall be open to all members and notice of meetings shall be posted conspicuously on the condominium property at least forty-eight (48) hours in advance for the attention of the members.

3.16 Vacancies. A vacancy in any directorship shall be filled by the person or body having the right to originally elect or appoint such Director.

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, Articles of Incorporation, and these Bylaws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by condominium unit owners where such approval is specifically required. Without limiting the powers and duties of the Board of Directors, it shall have the following express powers, in addition to all others herein granted, and provided for by the Declaration of Condominium and the Condominium Act, to-wit:

- (a) To enter into a long-term management contract, providing for the management of condominium property.

(b) To enter into contracts for the purpose of making available to the owners of condominium units such services as, but not limited to maintenance and security services.

5. Officers.

5.1 The executive officers of the Association shall be a President, who shall be a Director, a Vice-President, who shall be a Director, a Treasurer and a Secretary, all of whom shall be elected annually by the Board of Directors, and there may also be such Assistant Secretaries and Assistant Treasurers as the Board of Directors may from time to time determine upon. Any person may hold two or more offices except that the same person shall not hold the office of President and Vice-President, nor shall the President or a Vice-President also be Secretary or an Assistant Secretary. Any officer may be removed preemptorily by a vote of two-thirds (2/3) of the Directors present at any duly constituted meeting. A vacancy in any office shall be filled by the body having the right to originally elect the officer to the office so vacated.

5.2 The President shall be the chief executive officer of the Association. He shall have all of the powers and duties usually vested in the office of president of an association, including but not limited to the power to appoint committees from among the members from time to time, as he, in his discretion, may determine appropriate to assist in the conduct of the affairs of the Association.

5.3 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 notice to the members and Directors and other notices required by law. He shall have custody of the seal of the Association and affix it 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 an association and as may be required by the Directors or the President. The Assistant Secretary, if any, shall perform the duties of the Secretary when the Secretary is absent, and shall otherwise assist the Secretary.

5.4 The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. 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 Treasurer. The Assistant Treasurer, if any, shall perform the duties of the Treasurer when the Treasurer is absent, and shall otherwise assist the Treasurer.

5.5 No compensation shall be paid to any officer of the Association except with the approval of a majority of the membership, reflected by a vote taken at a duly constituted membership meeting. No officer who is a designee of the Developers shall receive any compensation for his services as an officer. Nothing herein shall be construed so as to prohibit or prevent the Board of Directors from employing any director or officer as an employee of the Association at such compensation as the Board shall determine upon, nor shall anything herein be construed so as to preclude the Board from contracting with a Director or officer or with any corporation in which a Director or officer of the Association may be a stockholder, officer, director or employee, for the management of the condominium for such compensation as shall be mutually agreed between the Board and such officer or Director.

6. Fiscal management. The provisions for fiscal management of the Association set forth in the Declarations of Condominium and Articles of Incorporation shall be supplemented by the following provisions:

6.1 Accounts. An account shall be maintained for the condominium administered by the Association. Receipts and expenditures shall be credited and charged to accounts under the following classifications as shall be appropriate:

(a) Current expenses, which shall include all receipts and expenditures within the year for which the budget is made, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves, to additional improvements or to operations.

(b) Reserve for deferred maintenance, which shall include funds for maintenance items that occur less frequently than annually.

(c) Reserve for replacement, which shall include funds for repair or replacement required because of damage, depreciation or obsolescence.

(d) Betterments, which shall include the funds to be used for capital expenditures for additional improve-

ments or additional personal property that will be part of the common elements.

(e) Operations, which shall include gross revenues from the use of common elements and from other sources. Only the additional direct expense required by any revenue producing operation will be charged to this account, and any surplus from any operation shall be used to reduce the assessments for current expense for the year during which the surplus is realized, or, at the discretion of the Board of Directors, in the year following the year in which the surplus is realized. Losses from operations shall be met by special assessments against condominium unit owners, which assessments may be made in advance in order to provide a working fund.

6.2 Budget.

(a) Adoption by Board of Directors. The Board of Directors shall adopt a budget for the condominium administered by the Association for each calendar year that shall include the estimated funds required to defray the common expenses and to provide and maintain funds for reserves for the condominium. The adoption of a budget for the condominium shall comply with the requirements hereinafter set forth:

(1) Notice of meeting. A copy of the proposed budget of common expenses shall be mailed to each unit owner not less than thirty (30) days prior to the meeting at which the budget will be considered, together with a notice of that meeting indicating the time and place of such meeting.

(2) Recall of Directors and Revision of Budget.

a. Special membership meeting. If a budget is adopted by the Board of Directors which requires assessment against the unit owners in any year exceeding one hundred and fifteen (115%) percent of such assessments for the preceding year, as hereinafter defined, upon written application of ten (10%) percent of the unit owners, a special meeting of the unit owners shall be held within thirty (30) days of delivery of such application to the Board of Directors or any member thereof. The

notice of said meeting shall state the purpose of the meeting being to consider and enact a revision of the budget or to consider and enact the recall of any and all members of the Board of Directors and to elect their successors.

b. Recall of Directors. During such period as Developer shall have the right to elect a majority of the Directors of the Association, recall of any and all members of the Board of Directors shall require the affirmative vote of all of the unit owners. Subsequent thereto, the recall of any and all members of the Board of Directors elected by any condominium shall require the affirmative vote of not less than seventy-five (75%) percent of the unit owners.

c. Revision of Budget. During such period of time as the Developer shall have the right to elect a majority of the Directors of the Association, a revision of the budget adopted by the Board of Directors shall require the affirmative vote of all the unit owners. Subsequent thereto, the revision of the budget adopted by the Board of Directors shall require the affirmative vote of not less than seventy-five (75%) percent of all unit owners.

(3) Omitted.

(4) Approval of Budget by Membership. Notwithstanding the foregoing, the Board of Directors may, in any event, propose a budget to the unit owners at a meeting of members or by writing and if such budget or proposed budget be approved by the unit owners at the meeting or by majority of their whole number by a writing, such budget shall not thereafter be reexamined by the unit owners in the manner hereinabove set forth, nor shall the members be entitled to recall any Board members in the manner hereinabove set forth.

(5) Budget Requiring Assessments Against Unit Owners Exceeding One Hundred Fifteen (115%) Percent of Assessments for the Preceding Year. In determining whether a budget requires assessment against unit owners in any year exceeding one hundred and fifteen (115%) percent of assessments for the preceding year, there shall be excluded in the computations any provision for reasonable reserves made by the Board of Directors in respect of repair or replacement of the condominium property or in respect of anticipated expenses by the condominium association which are not anticipated to be incurred on a regular or annual basis, and there shall be excluded from such computation assessments for betterments to the condominium property if the Bylaws so provide or allow the establishment of reserves, or assessments for betterments to be imposed by the Board of Directors.

(b) Adoption of Budget by Membership. In the event that the Board of Directors shall be unable to adopt a budget for the Association in accordance with the requirements of sub-paragraph (a) above, the Directors may call a special membership meeting for the purpose of considering and adopting the budget for the Association, which meeting shall be called and held in the manner provided for such special membership meetings in paragraph (2) above, and such budget adopted by the membership, upon the approval of the majority of the Board of Directors, shall become the budget of the Association for such year.

6.3 Assessments. Assessments against the condominium unit owners for their share of the items of the budget shall be made for the calendar year annually in advance or before December 20th preceding the year for which the assessments are made. Such assessments shall be due in equal installments, payable on the first day of each month of the year for which the assessments are made. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment, and monthly installments on such assessment shall be due upon each installment payment date until changed by an amended assessment. In the event the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board of Directors. Unpaid assessments for the remaining portion of the calendar year for which an amended assessment is made shall be payable in as many equal installments as there are full months of the calendar year left as of the

date of such amended assessment, each such monthly installment to be paid on the first day of the month, commencing the first day of the next ensuing month. Provided, nothing herein shall serve to prohibit or prevent the Board of Directors from imposing a lump sum assessment in case of any immediate need or emergency.

6.4 Acceleration of assessments installments upon default. If a condominium unit owner shall be in default in the payment of an installment upon an assessment, the Board of Directors may accelerate the remaining installments of the assessment upon notice to the condominium unit owner, and the then unpaid balance of the assessment shall be due upon the date stated in the notice, but not less than five (5) days after delivery of the notice to the condominium unit owner, or not less than ten (10) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.

6.5 The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

6.6 Fidelity bonds may be required by the Board of Directors for all persons handling or responsible for Association funds in such amount as shall be determined by the Board. The premiums on such bonds shall be paid by the Association.

6.7 Audit. An audit of the accounts of the Association may be made from time to time as directed by the Board of Directors. A copy of any audit report received as a result of an audit shall be furnished each member of the Association not less than thirty (30) days after its receipt by the Board to the extent that it applies to the condominium wherein the member owns a condominium unit.

7. Parliamentary rules. Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Articles of Incorporation or these Bylaws.

8. Amendments. A resolution for the adoption of a proposed amendment of these Bylaws may be proposed by either the Board of Directors of the Association or by the members of the Association. Members may propose such an amendment by instrument in writing

directed to the President or Secretary of the Board signed by not less than ten (10%) percent of the membership. Amendments may be proposed by the Board of Directors by action of a majority of the Board at any regularly constituted meeting thereof. Upon an amendment being proposed as herein provided for, the President, or, in the event of his refusal or failure to act, the Board of Directors, shall call a meeting of the membership to be held not less than fifteen (15) days nor later than sixty (60) days thereafter for the purpose of considering said amendment. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing providing such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be either by:

(a) Not less than sixty-six and two-third (66 2/3%) percent of the entire membership of the Board of Directors and by not less than fifty-one (51%) per cent of the votes of the members; or

(b) By a vote of not less than sixty-six and two thirds percent (66 2/3%) of the entire membership.

(c) In the alternative, an amendment may be made by an agreement signed and acknowledged by all condominium owners in the manner required for execution of a deed, and such amendment shall be effective when recorded in the Public Records of Sarasota County, Florida.

8.1 Proviso. Provided, however, that no amendment shall discriminate against any condominium unit owner nor against any condominium unit or class or group of units unless the condominium unit owners so affected consent. No amendment shall be made that is in conflict with The Condominium Act, the Articles of Incorporation, or any of the provisions of the Declaration of Condominium.

8.2 Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment to the Declaration and Bylaws, which certificate shall be executed by the officers of the Association with the formalities of a deed. The amendment shall be effective when such certificate and copy of the amendment are duly recorded as an amendment to Declaration of Condominium in the Public Records of Sarasota County, Florida.

9. Monetary Penalties and Procedure: in the event of a violation of the Declaration of Condominium, Articles of Incorporation, Bylaws, or Rules and Regulations of the Association, the unit owner who is in violation shall be immediately notified thereof and, if it continues or is repeated, the unit ownershall be subject to penalties therefore, including monetary penalties; but the imposition of such penalties and the payment thereof shall not limit the remedies of the Association in taking additional action, including action to enforce compliance with the Rules of the Association, to prohibit further violations thereof, including but not limited to injunctive relief. In addition to other remedies provided herein, the Board of Directors may impose a fine, not exceeding fifty dollars (\$50) per day, upon a unit owner for each day the unit is in violation of the Rules and Regulations of the Association, Declaration of Condominium, Bylaws or Articles of Incorporation.

Disagreements concerning violation and penalties shall be expeditiously presented to the Board of Directors for final determination and shall not be subject to Court review or injunction except in a legal action brought by the Association to recover damages or a penalty or an action by the Association for an injunction. All parties shall be heard without sworn testimony and data and information shall be submitted to the Board of Directors on an informal basis, not subject to the strict rules of legal evidence. Notwithstanding the foregoing provisions of this paragraph, the Board of Directors may appoint a committee of not more than three (3) members who shall have initial jurisdiction to hear and determine all matters pertaining to the violations of the Rules and Regulations, Declaration of Condominium, Bylaws and Articles of Incorporation and have the authority to levy monetary penalties as prescribed herein. If the unit owner is dissatisfied with the decision of the committee, then an appeal, in writing, may be taken to the Board of Directors within ten (10) days of the mailing by certified mail of the determination of the committee to the unit owner. The hearing before the Board of Directors shall constitute a de novo hearing but matters of written record made before the committee may be considered in the hearing before the Board of Directors. In addition to procedure described herein, it is the intent that proceedings before the committee and the Board of Directors shall be conducted on an informal basis with due observance of all of the rights of the parties. The vote of a majority of each body is required to constitute a decision and the decision in each case shall be in writing and signed by the presiding member or other designated person thereof and the findings shall not be required nor a record made of the proceedings. Detail procedures may be adopted by the Board of Directors in regard to hearings and appeals.

The foregoing were adopted as the Bylaws of VIVIENDA WEST
CONDOMINIUM ASSOCIATION, INC., a corporation not for profit under
the laws of the State of Florida, at the first meeting of the Board
of Directors on the 25th day of January, 1978.

Tom E. Schumacher
Secretary

Approved:

S. J. McKeamy President

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