

RESTATED

**ARTICLES OF INCORPORATION  
OF  
*VIVIENDA WEST CONDOMINIUM ASSOCIATION, INC.***

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 Boulevard, Venice, Florida 34293.

**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 including but not limited to the following:

(a) To make and collect assessments against Members as Unit Owners to defray the costs, expenses and losses of operation.

(b) To use the proceeds of assessments in the exercise of its powers and duties.

(c) To maintain, repair, replace and operate the Condominium property.

(d) To purchase insurance upon the Condominium property and insurance for the protection of the Association and its Members as Unit Owners.

(e) To make and amend reasonable rules and regulations respecting the use of the property in the Condominium.

(f) To approve or disapprove the transfer, mortgage and ownership of Units in the Condominium.

(g) To enforce by legal means the provisions of the Condominium Act of the State of Florida, the Declaration of Condominium, these Articles of Incorporation, Bylaws of the Association and the regulations for use of the property of the Condominium.

(h) To contract for the management of the Condominium and to delegate to such contractor all powers and duties of the Association, except such as are specifically required by the Declaration of Condominium to have the approval of Directors or the membership of the Association.

(i) To contract for the management or operation of portions of the common elements susceptible to separate management or operation.

(j) To employ personnel to perform the services required for proper operation of the Condominium.

(k) To acquire or enter into agreements whereby it acquires leaseholds, memberships or other possessory or use interests in real and personal property.

(l) To purchase Units in the Condominium and to acquire and hold, lease, mortgage and convey the same, subject, however, to the provisions of the Declaration and Bylaws relative thereto.

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.

3.5 **Assets Held in Trust.** All funds and properties acquired by the Association and the proceeds thereof 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.

3.6 **Limitation on Exercise of Powers.** 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 of the Association.

#### ARTICLE IV

4.1 The Members of the Association shall consist of all of the record owners of the Condominium Units in **VIVIENDA WEST, a Condominium**, hereinafter referred to as "Condominium Units", and after termination of the 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 in establishing record title to a Condominium Unit in **VIVIENDA WEST, a condominium**, 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 term of the Association shall be perpetual unless the Condominium is terminated pursuant to the provisions of the Declaration and, in the event of such termination, the Corporation shall be dissolved in accordance with the law.

#### ARTICLE VI

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

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

<b>NAMES</b>	<b>OFFICE</b>	<b>ADDRESSES</b>
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). 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:

<b>NAMES</b>	<b>OFFICE</b>	<b>ADDRESSES</b>
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

8.4 **Election of Directors.** The Directors of the Association shall be elected at the annual meeting of the members in the manner determined by the Bylaws of the Association. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws of the Association.

8.5 The Directors and Officers may lawfully and properly exercise the power set forth in Article 3, notwithstanding the fact that some or all of them who may be directly or indirectly involved in the exercise of such powers in the negotiation and/or consummation of agreements executed pursuant to such powers are some or all of the persons with whom the Corporation enters into such agreements or who own some or all of the proprietary interest in the entity or entities with whom the Corporation enters into such agreements. Disclosure of such agreements by setting forth the same in the Declaration of Condominium as initially declared or subsequently re-declared or amended, shall stand as an absolute confirmation of such agreements and the valid exercise by the Directors and Officers of this Corporation of the powers pertinent thereto.

#### **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; provided that in the event of a settlement the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interest of the Association. 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 fourteen (14) days nor later than sixty (60) days thereafter for the purpose of considering such amendment. Members not present in person at the meeting considering the amendment may express their approval in writing by limited proxy provided such limited proxy is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be by fifty-one (51%) percent of the votes of the entire membership of the Association above.

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 Condominium Units. No amendment shall be made that is in conflict with the Condominium Act or the Declaration of Condominium.

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 as designated from time to time by the Board of Directors at their discretion.