

BARBARA T. SCOTT, CLERK
CHARLOTTE COUNTY
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RESTATEMENT
OF THE
DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
THE WATERWAYS VILLAS

THIS DECLARATION is made this 25th day of August, 2001 by The Waterways Home Owners' Association, Inc., which, having accepted and assumed the Developer's powers, rights and duties, declares that the real property described in Article II is and shall be held, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") set forth below.

ARTICLE I
Definitions

The following words when used in this Declaration and all its exhibits (unless the context otherwise requires) shall have the meanings and definitions respectively set forth below.

- (a) "Association" shall mean and refer to The Waterways Homeowners' Association, Inc., its successors and assigns.
- (b) "Board" or "Board of Directors" shall mean and refer to the Board of directors of the Association.
- (c) "By-Laws" shall mean and refer to the by-laws of the Association as the same may be amended from time to time.
- (d) "Declaration" shall mean this declaration as the same may be amended or supplemented.
- (e) "Lot" shall mean and refer to any Lot as appears in the plat or replat of The Waterways or any portion thereof. A lot may be either improved or unimproved.
- (f) "Member" shall mean and refer to all those Owners who are Members of the Association as provided in Article III, Section I hereof.
- (g) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot, but excluding those having such interest merely as security for the performance of an obligation. References in this Declaration or its exhibits to Owner or Member may be used interchangeably. Each Owner shall be a Member and each Member shall be an Owner.
- (h) "Residence" shall mean a structure designed and intended for use and occupancy as zero lot line single family attached residence which is erected on a lot
- (i) "Rules and Regulations" shall mean the rules and regulations included in this Declaration and such further or amended rules and regulations as may from time to time be adopted by the Board of Directors
- (j) "Private Roads" shall mean and refer to all roads which are common to the Waterways as a whole and which are available for the common use of all owners in the Waterways which roads are to be maintained by the Association.

IMAGE1
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Restatement
Page 2

ARTICLE II

Property Subject to this Declaration

Section 1. Legal Description. The real property which is, and shall be held, transferred, sold, conveyed, demised and occupied subject to this Declaration is located in Charlotte County, Florida and is more particularly described in Exhibit A attached hereto and made a part hereto.

Section 2. Merger or Consolidation. Upon a merger or consolidation of the Association with any other association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law be transferred to another surviving or consolidate association or, alternatively, the properties, rights and obligations of another association may by operation pursuant to a merger. The surviving association may administer the covenants and restrictions established by this Declaration within the Waterways

ARTICLE III

Membership and Voting Rights in the Association

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any lot in The Waterways shall be a Member of the Association. Notwithstanding anything else to the contrary set forth in this Section 1, any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member of the Association. Members shall be entitled to one vote for each lot in which they hold the interests required for each membership by Section 1. When more than one person holds such interest or interest in any lot, all such persons shall be Members and the vote for such lot shall be exercised by one such Member as specified in the Articles of Incorporation but in no event shall more than one vote be cast with respect to any such lot.

Section 2. Proviso. Notwithstanding the provisions hereof, the Association shall have the right to suspend any Member's voting right for any period during which any assessment of installment thereof shall remain unpaid for more than thirty (30) days after the due date for the payment thereof.

ARTICLE IV

Easement Area, Lawns and Exteriors of Residences

Section 1. Easement for Unintentional and Non-Negligent Encroachments. If a lot or the Residence thereon shall encroach upon any other lot by reason of original construction or by the non-purposeful or non-negligent act of an Owner or Developer, then an easement for such encroachment shall exist so long as the encroachment exists.

Section 2. Maintenance. The association shall maintain all lawns and private roads, which shall be paid for by the Association through assessment imposed in accordance with Article V hereof. Such assessments shall be against all lots equally; provided, however, that the cost of any maintenance, repair or replacement caused by negligent conduct of a Member or by the failure of a Member to comply with the lawfully adopted Rules and Regulations shall be levied as a special assessment against such member. In addition, the Association shall approve the paint, coating stain, vinyl siding, finishes and colors on all residences. Each owner is REQUIRED TO MAINTAIN his own roof gutters, any plate glass, exterior walls, roofs of residences, windows, sliding glass doors, window screens, and door screens of residences (except for maintenance of the paint or stain on entry doors).

Restatement
Page 3

The Association its successors and assigns, shall have a perpetual, non-exclusive easement for ingress and egress over, upon and across and to excavate on lots in connection with the maintenance of sprinkler pipes and systems, to the extent necessary for the performance of the work to be performed; provided, however, that the party causing any such excavations restores disturbed areas to the condition thereof immediately prior to such excavations.

ARTICLE V

Covenants for Maintenance and Assessments

Section 1. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any lot by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay the Association the following: (1) annual general assessments or charges, and (2) special assessments for capital improvements.

All such assessments, together with fines, penalties, levies and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the lot against which each such assessment is made. Each such assessment together with fines, penalties and levies thereon and cost of collection thereof, shall also be the personal obligation of the person who was the owner of such lot at the time when the assessment fell due.

Section 2. General Assessments.

A. Purpose of Assessment. The general assessments levied by the association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of The Waterways and in particular for (a) the maintenance of the areas to be maintained by the Association pursuant to this Declaration, and (b) the performance of the functions, duties, responsibilities and powers of the association under and pursuant to this Declaration.

B. Basis for Assessments (General or Special). Each lot and Residence thereon within The Waterways shall be subject to the assessments provided for under this Declaration at an equal rate or upon an equal basis.

C. Method of Assessment. By vote of a majority of the Directors, the board shall fix the annual assessments provided for herein upon the basis provided above. Such assessments shall be sufficient to meet the obligations imposed by this Declaration. The Board shall set the dates such assessments and any installments thereof shall become due; provided, however, that in no event shall such assessments or any installments of any such annual assessment be due more frequently than monthly. Upon the failure of any owner to pay any assessment within 30 days after the due date thereof, the Board may declare the entire balance of such annual assessment to be immediately due and payable.

Section 3. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may at any time and from time to time levy special assessments for the purpose of defraying, in whole or in part, the cost of construction, reconstruction, repair or replacement of a capital improvement upon the Recreational Area and/or common areas, including fixtures, personal property and equipment related thereto so long as the same is approved by fifty one percent (51%) of the owners voting in person or by proxy at a special meeting duly called for the purpose of considering such assessment.

Section 4. Duties of the Board of Directors. The Board of Directors shall fix the amount of the assessment against each lot at least ten (10) days in advance of the commencement of the assessment period and shall, at that time, prepare a roster of the lots and assessments applicable

Restatement
Page 4

thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every owner subject thereto. The Association shall upon demand at any time furnish to any owner liable for an assessment a certificate in writing signed by an officer of the Association, setting forth whether such assessment has been paid as to the lot owned by the owner making request therefore. Such certificate shall be conclusive evidence of payment of any assessment to the association herein stated to be paid.

Section 5. Collection of Assessments; Effect of Non-Payment of Assessments; Personal Obligation of Owners; Lien; Remedies of the Association. If the assessments are not paid on the date when due, then such assessments shall become delinquent and shall together with such penalties and interest thereon and the cost of collection thereof as hereinafter provided, thereafter becoming a continuing lien on the lot which shall bind such lot in the hands of the owner, his heirs, devisees, personal representatives, successors or assigns. Any individual who acquires title to a lot upon the death of an owner or by operation of law shall be personally liable for unpaid assessments imposed on such lot. In any voluntary conveyance, the Grantee shall be jointly and severally liable with the grantor for all unpaid assessments made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefore.

Section 6. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment or installment thereof not paid within thirty(30) days after the due date may upon resolution of the board be subject to a penalty fee in such amount as may be established from time to time by the Board of Directors. In addition to the foregoing, if an assessment is not paid within thirty (30) days after due date, the assessment, at the discretion of the Board of Directors may bear interest at the highest rate permitted by law. The Association may bring an action at law against the owner personally obligated to pay the assessment and/or may record a claim of lien against the lot on which the assessment is unpaid, or may foreclose said lien in like manner as foreclosure of a mortgage on real property, or pursue one or more of such remedies at the same time or successively, and there shall be added to the amount of such assessment, attorney's fees and costs of preparing and filing the claim of lien and the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest as provided by law and a reasonable attorney's fee in connection with both the litigation and any appeal of any such action. It shall be the legal duty and responsibility of the Association to enforce payment of the assessments hereunder.

Section 7. Subordination of the Lien to Mortgages. The lien of the assessment provided for in this Article V shall be subordinate to the lien of any institutional first mortgage in favor of an institutional lender recorded prior to the recordation of a claim of lien for unpaid assessments. An institutional lender is defined as either a bank or life insurance company or a federal or state savings and loan association, or a mortgage or a real estate investment trust, or a pension and profit sharing fund or a credit union or a Massachusetts business trust, or an agency of the United States government, or a lender generally recognized in the subdivision as an institutional lender including FNMA or the Developer, or assignee, nominee or designee of the Developer. A mortgagee in possession, a receiver a purchaser at a foreclosure sale, or a mortgagee that has acquired title by deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or mortgagee, shall hold title subject to the liability and lien of assessments becoming due after such foreclosure of conveyance in lieu of foreclosure. Any unpaid assessment which cannot be collected as a lien against any lot by reason of the provisions of this section 7 shall be deemed to be a new assessment divided equally among, payable by, and assessed against, all lots,

Restatement
Page 5

including the lot as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

Section 8. Exempt Property. The following properties subject to this Declaration are and shall be exempt from the assessments, charges and or liens created herein: (1) all properties, if any, to the extent of any easement of other interest therein dedicated and accepted by the local public authority and devoted to public use; (2) common areas, if any; and (3) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption.

Section 9. Annual Budget. By a majority vote of the Board of Directors, the Board shall adopt an annual budget for the subsequent fiscal year, which shall provide for allocation of expenses in such a manner that the obligations imposed by the Declaration will be met.

ARTICLE VI Use of Property

Section 1. Protective Covenants

A. Residential Use. All lots shall be used, improved and devoted exclusively for residential use. Nothing herein shall be deemed to prevent the Owner from leasing a residence subject to all of the provisions of the Declaration.

B. Restriction on Further Subdivision. No lots shall be further subdivided or separated by any owner, and no portion less than all of any lot, nor any easement or any other interest therein, shall be conveyed or transferred by an owner, provided that it shall not prohibit deeds of correction, deeds to resolve boundary disputes, and similar corrective instruments.

C. Zoning. Uses which do not conform to Charlotte County zoning ordinances will not be permitted upon the Waterways.

D. Temporary Buildings. No tents, trailers, vans, shacks, tanks or temporary or accessory buildings or structures shall be erected or permitted to remain on The Waterways.

E. Trash and Garbage. No lumber, metals, bulk materials, refuse or trash shall be kept, stored, or allowed to accumulate on any lot except building materials during the course of construction of any structure approved in accordance with the provisions of Paragraph L of this Section 1. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open on any day that a pick-up is to be made at such place on the lot as will be accessible to persons making such pick-up. At all other times such containers shall be stored so that they cannot be seen from surrounding property. The Board of Directors, in its discretion, may adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage of the same.

F. Burial of Pipes and Tanks. No water pipe, gas pipe, sewer pipe, drainage pipe or storage tank shall be installed or maintained on any lot above the surface of the ground, except hoses and movable pipes used for irrigation purposes. No lot shall be used for the purpose of boring, mining, quarrying exploring for or removing oil or other hydrocarbons, minerals, gravel or earth.

G. Nuisances. Nothing shall be done on any lot which may be or may become an annoyance or nuisance to the neighborhood. In the event of any question as to what may become a nuisance, such question shall be submitted to the Board of Directors for a decision in writing, and its decision shall be final.

No refuse or unsightly objects shall be allowed to be placed or suffered to remain anywhere on any lot; and in the event an Owner shall fail or refuse to keep his lot free of refuse or other unsightly objects, then the Association may enter upon said premises and remove the same

OR BOOK 1

Restatement
Page 6

at the expense of the owner, and such entry will not be deemed trespass, except however that the owner shall be given at least ten (10) days prior written notice of such action.

The use of any driveway or parking area which may be in front of, adjacent to, or part of any lot as a habitual parking place for commercial vehicles, trailers and boats is prohibited. The term "commercial vehicle" shall include all trucks of over one (1) ton rating and vehicular equipment of over 24' in length exclusive of station wagons and passenger cars. No motor vehicle of any kind may be disassembled, serviced or repaired on any lot in such a manner as to be visible from any point on an adjacent lot or the street.

H. Walls or Fences. No wall, fence, hedge, or similar structure shall be placed, constructed, erected or permitted on any lot except with the express written permission of the Board of Directors

I. Clothes Drying. All clothes lines must be of the size and type approved by the Association.

J. Shutters, Aerials and Mailboxes. No exterior radio, television, or other antenna or aerial may be erected or maintained within the Waterways without Board approval. No hurricane or storm shutters shall be installed unless the same be of a type approved by the Board of Directors. No mailboxes shall be installed unless the mounting and type is approved by the Board of Directors.

K. Plan Approval. No building, structure, wall, fence, swimming pool, screen enclosure, terrace or barbecue pit, or other structure or addition thereto shall be placed upon The Waterways or any part thereof, nor shall construction thereof commence without the prior written consent by the Board of Directors.

L. Drainage. No changes in elevations of property subject to these restrictions shall be made which will cause undue hardship to adjoining property.

M. Underground Wires. No lines or wires for communication or the transmission of current shall be constructed placed, or permitted to be placed within The Waterways unless the same shall be protected by cables; any of said lines or wires which are not located in buildings shall be constructed or placed and maintained underground.

N. Animals. No 4 legged animals are permitted. Small quiet birds and small fish only. Under no circumstances shall any commercial or business enterprise involving the use of animals be conducted on the property.

O. Signs. No sign of any character shall be displayed or placed upon any lot, including "For Rent" or "For Sale" signs, except Owner's builder's identification signs, the format of which shall be approved by the Board of Directors. Said sign may be one (1) in number, not to exceed four (4) square feet in surface area.

P. Business. No manufacturing, trade, business, commerce, industry, profession or other occupation whatsoever will be conducted upon any lot or in any building or other structure erected thereon except for construction and improvements to the Waterways and the sale of lots and Residences.

Q. Yards, Etc. All yards, walkways, driveways and parking areas located on each lot and other areas of each lot shall be kept in a neat and clean condition, free of refuse and debris, by the owner thereof at his sole cost and expense.

R. Setbacks. Minimum setbacks shall be those required by Charlotte County.

S. Trespassing. Front and back lawns are not common areas; therefore, no trespassing is allowed without permission of owner.

T. Certain Repairs and Other Restrictions, Rules and Regulations.

(1) See article IV Section 2.

Restatement
Page 7

(2) The association shall have the right to file a lien for non-payment of such charges and costs in which event the owner shall be responsible for reasonable attorney's fees and costs. In the event of the non-payment by an Owner of any charges and costs as provided for above, then the Association shall have the rights and remedies provided for in Article V hereinabove. The Association shall have a perpetual non-exclusive easement for ingress and egress over the lots in the Waterways for the purpose of maintenance and the making of such repairs if and to the extent such ingress and egress is necessary to implement the purposes and intent of this Declaration.

(3) The following restrictions, rules and regulations shall be adhered to by each Owner, lessee, their house guests and visitors:

(a) No Owner, Lessee, house guests or visitors shall make or permit any disturbance that will interfere with the rights, comforts or convenience of others.

(b) On any re-sale of a lot, the buyer and seller shall comply with the provisions of this Declaration.

(c) All owners and lessees of lots in The Waterways shall abide by this Declaration, the Articles of Incorporation, the By-Laws and all Rules and Regulations as they are adopted from time to time by the Board of Directors. The Owners shall, at all times, obey the Rules and Regulations and shall use their best efforts to see that they are faithfully observed by their families, guests, invitees, servants, lessees, and persons over whom they exercise control and supervision. In order to change or amend any Rule or Regulation and/or adopt new rules or regulations, the same must be duly adopted by at least a fifty-one percent (51%) affirmative vote or consent of the Board of Directors. No vote of the membership shall be required. A change, amendment or adoption of a rule or regulation shall not require an amendment to the Declaration or the By-Laws.

Section 2. Utility Easements. There is hereby created a blanket easement upon, across, over, through and under The Waterways for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems including, but not limited to water, sewers, gas, telephone, electricity and cable television lines and systems. By virtue of this easement it shall be expressly permissible for the Association providing utility or service company to install and maintain facilities and equipment on The Waterways, to excavate for such purposes providing the party causing such excavations restores disturbed areas to the condition in which they were found. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines or facilities for such utilities may be installed or relocated on The Waterways except as programmed and approved by the Association nor shall the same be located in areas upon which any Residence or other building is erected. This easement shall in no way affect any other recorded easements on the Waterways.

Easements for drainage, installation and maintenance of utilities and for ingress and egress are reserved as shown on the recorded plats of The Waterways. Within these easements, no plantings, buildings or other permanent structures may be placed or permitted to remain that will interfere with ingress or egress or prevent maintenance of utilities. Public utility companies servicing The Waterways and the Association, and their successors and assigns, shall have a perpetual easement for the installation and maintenance of water lines, sprinkler lines, sanitary sewers, storm drains, gas lines, electric and telephone lines, cables and conduits, including television cables and conduits for such services, to the lots under and through the utility easements as shown on the plats and under and through such portions of each lot beyond the buildings as such buildings may from time to time be located. Any damage caused to pavement, driveways, drainage structures, sidewalks, other structures, or landscaping in the installation or maintenance

Restatement
Page 8

of such utilities shall be promptly restored and repaired by the utility whose installation or maintenance caused the damage.

There shall be an easement granted wherever necessary to those companies furnishing utilities in the Residences enabling them to place centralized meters on the exterior wall of any of the Residences.

ARTICLE VII Party Walls

Section 1. General. Each wall built as part of the original construction of any attached single family dwellings upon The Waterways and placed on the dividing line between the lots thereof shall constitute a party wall, and each Owner shall own that portion of the wall which stands on his lot, with an easement of support in the other portion. The Owner of any Residence sharing a party wall with the Owner of the adjoining residence shall not cut windows or any other openings in such wall or make any alterations, additions or changes in or to such wall without consent thereto of both the Board of Directors and the Owner of the adjoining Residence.

Section 2. Sharing of Repair and Maintenance. The costs of the repair and maintenance of a party wall shall be shared equally by the owners who make use of the wall.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore the same, but no greater dimension of said party wall or of any restoration thereof shall be placed upon the land of the other owner than that existing prior to such fire or other casualty without the written consent of the latter first obtained. If the other owner thereafter makes use of the wall, such other owner shall contribute to the cost of the restoration thereof equal proportion without prejudice, however, to the right of any owner to call for a larger liability for negligent or willful acts or omissions. Whenever any party wall or part thereof shall be repaired or rebuilt, it shall be constructed in the same location where originally constructed, in the same size as originally constructed and of the same or similar materials.

Section 4. Weather Proofing. Notwithstanding any provision of this article, any owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution. The right of any Owner to contribution from any other Owner under this Article VII shall run with the land and shall pass to such Owners' successors in title. If any Owner fails to contribute his proper proportionate share of the costs of any repair, maintenance or restoration of any party wall, the unpaid contribution shall become a continuing lien on the lot owned by the Owner failing to contribute his proper proportionate share of such costs which shall bind such lot in the hands of the Owner thereof his heirs, devisees, personal representatives, successors and assigns. Under such circumstances, the owner entitled to contribution may bring an action at law against the Owner obligated with the respect to such contribution and/or may record a claim of lien against the lot owned by the Owner obligated with respect to such contribution, foreclosure of a mortgage on real property, or pursue one or more of such remedies at the same time or successively, and there shall be added to the amount of such lien, attorney's fees and costs of preparing and filing the claim of lien and the complaint in such action, and in the event a judgment is obtained, such reasonable attorney's fee to be fixed by the court together with the costs of the action. No lien provided for in this Section 5 shall be effective until the recordation of a claim of lien in the Public Records of Charlotte County, Florida. Any lien provided for in this Section 5 shall be subordinate to (a) the lien of any mortgage or

Restatement
Page 9

mortgages recorded prior to the recordation of the claim of lien for any unpaid contribution under this Article VII and (b) the lien for unpaid assessments provided for in Article V hereof without regard to the order of priority of recordation of the claim of lien.

Section 6. Easement for Repair, Maintenance and Restoration. Each owner and mortgagee(s) under any mortgage(s) covering such Owners' lot shall have a non-exclusive easement over, upon and across the adjoining lot if and to the extent necessary for the performance of the work to be performed in connection with the repair, maintenance and restoration of any party wall which stands on the dividing line between his lot and such adjoining lot.

Section 7. Right of Mortgagees to Repair or Restore. If neither of the Owners of the adjoining lot sharing a party wall which requires repair or restoration make the necessary repairs or restorations to such party wall, then and in such event (a) any mortgagee(s) under any mortgage(s) covering either of such lots shall have the right (but not the obligation) to repair or restore such party wall, (b) the owner of the mortgaged property shall, upon demand, reimburse the mortgagee for all costs and expenses incurred by the mortgagee in connection with such repair or restoration and (c) such costs and expenses shall be secured by the mortgage held by such mortgagee. If there is more than one mortgage covering such adjoining lot or either of them, the aforesaid right to make necessary repairs or restorations to such party wall shall inure to the respective mortgagees in the order of the priority of the recordation of such mortgages.

Section 8. Covenants Run With the Land. All covenants and provisions of this Article VII shall run with and bind the land and all sales and conveyances of lots shall be subject thereto.

Section 9. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article VII, each party shall choose one arbitrator, and the decision of a majority of all the arbiters shall be final and conclusive of the question involved.

Section 10. Easement of the Roof Overhangs. In connection with the construction of the Residences upon the lot, it is contemplated that the roofs of certain Residences may overhang party walls or property lines and may thus encroach onto adjacent lots. There is hereby created over any lot upon which such encroachment occurs an easement for such encroachment.

ARTICLE VIII Destruction of Residence

In the event a Residence is damaged or destroyed by fire or other casualty insurable under a property damage insurance policy with standard extended coverage endorsement, the Owner of such Residence shall, with reasonable dispatch, repair or restore such Residence substantially to the condition thereof immediately prior to the occurrence of such damage or destruction. Any such repair or restoration shall be performed in accordance with the requirements of Charlotte County. If for any reason the Owner does not proceed with such repair or restoration with reasonable dispatch, or if such work is not completed within ninety (90) days after the occurrence of such damage or destruction (or such longer period to which the Association may agree in writing); then and in such event the Association may, in the exercise of its sole discretion, elect either to repair or restore such Residence to the condition thereof immediately prior to the occurrence of such damage or destruction of, alternatively, to remove the remaining portion of the Residence, clear all debris and plant sod and landscape the lot in a manner determined by the Association to be consistent with the landscape plan of the Waterways. The Owner of such lot shall be responsible for the payment of all costs and expenses incurred by the Association pursuant to the provisions of this Article VIII and the same shall be due and payable

Restatement
Page 10

within thirty (30) days after written demand therefore is made by the Association. If such costs and expenses are not paid by the owner to the Association as aforesaid, the Association shall have a lien therefore upon the lot and Residence of such defaulting Owner. The said obligation and lien may be enforced in a manner as in the case on non-payment of the assessments provided for in this Declaration, including without limitation the rights and remedies for enforcement provided in Section 6, Article V hereof. Notwithstanding anything to the contrary contained herein, in the event any Residence is destroyed or removed by cause, if replaced said Residence shall be replaced with a Residence of similar size and type not exceeding, however, the dimensions of the previous Residence.

ARTICLE IX

Additions, Alterations, or Improvements: Consent of Board of Directors.

No owner shall make any structural addition, alteration or improvement in or to his Residence without the prior written consent thereto of the Board of Directors. The Board shall have the obligation to answer any written request by an Owner for approval of a proposed structural addition, alteration or improvement in such Owner's Residence. All structural additions, alterations and improvements by Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction. An Owner making or causing to be made any structural additions, alterations or improvements agrees, and shall be deemed to have agreed, to hold the Association and all other Owners harmless from any liability arising therefrom. Refusal of approval of plans, specifications and plot plan, or any of them, may be based on any ground, including purely aesthetic grounds, which the Board of Directors in its sole and uncontrolled discretion, deems sufficient. It shall be a condition precedent to the granting of the consent of the Board of Directors to the making of any structural additions, alterations or improvements in or to any Residence that the Owner of such Residence comply with all of the requirements, restrictions and provisions of the Restrictions for The Waterways, including without limitation the requirement for obtaining the prior written approval by the Board of Directors of the Waterways of the plans and specifications for such structural addition, alteration or improvement.

Any change in the exterior appearance of any Residence, including fences, walls, pool or patio enclosures, or any change in the appearance of the landscaping shall be deemed an alteration requiring approval. The Board of Directors shall have the power to promulgate such rules and regulations as it deems necessary to carry out the provisions and intent of this paragraph.

ARTICLE X

General Provisions

Section 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association or the Owner of any lot subject to this declaration and their respective legal representatives, heirs, successors and assigns, for a term of ninety-nine (99) years from the date this declaration is recorded, after which time such covenants and restrictions shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of two-thirds (2/3) of the lots has been recorded, agreeing to change or terminate said covenants and restrictions in whole or in part.

Restatement
Page 11

OR BOOK 1971

Section 2. Notice. Any notice required to be sent to any owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants and failure by the Association or an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Severability. Invalidation of any one or more of the covenants, restrictions or provisions of this Declaration by judgment or court order shall in no way affect any other covenant, restriction or provision hereof and such other covenants, restrictions and provisions shall remain in full force and effect.

Section 5. Captions. The captions used in this Declaration are inserted solely as a matter of convenience and shall not be relied upon and/or used in construing the effect or meaning of the text of this Declaration.

Section 6. Context. Whenever the context so requires, any pronoun used herein shall be deemed to mean the corresponding masculine, feminine or neuter form thereof and the singular form of any nouns and pronouns herein shall be deemed to mean the corresponding plural form thereof and vice versa.

Section 7. No Implied Waiver. The failure of the Association, the Board of Directors or any Owner to object to an Owner's or other party's failure to comply with any covenant, restrictions or provision contained herein shall in no event be deemed a waiver of any such covenant, restriction or provision.

Section 8. Conflicts, Etc. In the event of any inconsistency between this Declaration and the Articles and By-Laws of the Association, the provision of this Declaration shall supersede, govern and control.

IN WITNESS WHEREOF, this Restatement of the Declaration of Covenants and Restrictions for THE WATERWAYS has been executed by the duly authorized personnel of The Waterways Homeowners' Association, Inc. on the day and year first above written.

William Schumacher
Witness as to the President

Alfred J. Boyd
Witness as to the President

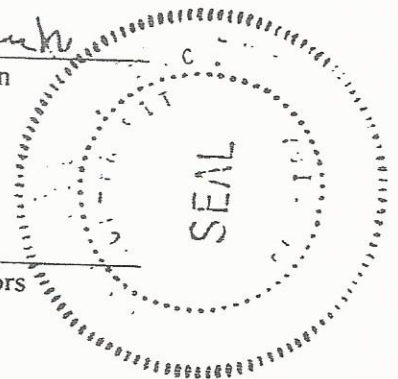
William Schumacher
Witness as to the Chairman

Alfred J. Boyd
Witness as to the Chairman

Robert G. Bomer
President of the Association

(corporate seal)

Joseph R. Boyd
Chairman, Board of Directors



Restatement
Page 12 and last


STATE OF FLORIDA
COUNTY OF CHARLOTTE

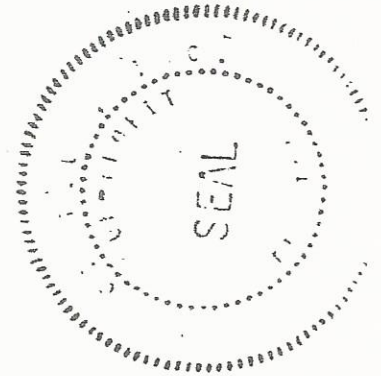
BEFORE ME, the undersigned authority, personally appeared Robert Powers Jr.
President of The Waterways Homeowners' Association, Inc. and Joyce R. Boyd
Chairman of its Board of Directors, who produced Fla. DIL as identification, and
they acknowledged to and before me that they executed the foregoing instrument for the purposes
expressed therein.

WITNESS my hand and official seal in Port Charlotte, State and County aforesaid, this
21 day of September 2001.

Mary L. Edwards
Notary Public, State of Florida at Large

(SEAL)

 Mary L. Edwards
Commission # CC 751188
Expires July 22, 2002
BONDED THRU
ATLANTIC BONDING CO., INC.



This instrument was prepared by:
STEPHAN B. WIDMEYER, ESQ.
3871-A Tamiami Trail
Port Charlotte, FL 33952
941-624-3010

OR BOOK

OR BOOK 1971

EXHIBIT A
TO
RESTATEMENT OF THE DECLARATION OF COVENANTS AND
RESTRICTIONS FOR THE WATERWAYS VILLAS
(recorded 09/24/01 in O.R. Book 1943, Pages 1309-1320, File #846837)

NOTE: This Exhibit inadvertently omitted from the recording of the above instrument.

A parcel of land in PLAN NO. 2 OF A PART OF WARD ONE EL JOSSAN, according to the plat thereof, as recorded in Plat Book 2, Page 47, of the Public Records of Charlotte County, Florida, being more particularly described as follows:

Beginning at the intersection of the Westerly right-of-way line of West Railroad Avenue and the centerline of the alleyway between Lots 844 and 845 of said Plat; thence S 72° 04' 06" W, along the centerline of said alleyway, a distance of 623.54 feet to the centerline of Hayward Avenue (A.K.A. Hayward Waterway); thence N 97° 55' 54" W, along said centerline, a distance of 302.53 feet, to an intersection of the centerline of said Hayward Avenue and a Westerly projection of the centerline of the alleyway between Lots 859 and 860 of said Plat; thence N 72° 04' 06" E, along the centerline of said alleyway, a distance of 846.07 feet; thence N 17° 55' 54" W, a distance of 113.50 feet, to a point 7.50 feet Southerly of the centerline of Newcomb Road as SHOWN ON SAID PLAT; thence N 72° 04' 06" E, along a line parallel with and 7.50 feet Southerly of, as measured at right angles to the centerline of said Newcomb Road, a distance of 145.53 feet, to the westerly right-of-way line of said West Railroad Avenue; thence S 12° 04' 06" W, along said Westerly right-of-way line, a distance of 433.59 feet, to the Point of Beginning.

Prepared by and Return to:
STEPHAN B. WIDMEYER, ESQ.
3871-A Tamiami Trail
Port Charlotte, FL 33952
941-624-3010

FILE 940854 OR BK 02088 PG 1003 REC'D 08/27/2002 09:25:18 AM
BARBARA T. SCOTT, CLERK, CHARLOTTE CO
REC 10.50

**SUPPLEMENT
to
RESTATEMENT
of the
DECLARATION OF COVENANTS AND RESTRICTIONS
for
THE WATERWAYS VILLAS**

THIS INSTRUMENT supplements the Restatement of the Declaration of Covenants and Restrictions for The Waterways Villas recorded in Official Records Book 1943, page 1405 et seq., and re-recorded in Official Records Book 1971, page 0135 et seq. of the Public Records of Charlotte County, Florida, to wit in Article X, new Section 9 is added as follows:

Section 9. Amendments. This Declaration may be amended only with the consent of (i) two-thirds (2/3) of all Owners, (ii) a majority of the entire Board, and (iii) each institutional mortgagee holding a mortgage on any lot. The aforementioned consents must be in writing and shall be affixed to the amendment to this Declaration. Notwithstanding anything to the contrary contained herein, (i) no amendment shall be effective which shall, in a material fashion, impair or prejudice the rights or priorities of any Owner or of any institutional mortgagee under this Declaration without the specific written approval of the Owner or institutional mortgagee affected thereby. Any amendment to this Declaration shall become effective upon recordation thereof amongst the Public Records of Charlotte County, Florida.

IN WITNESS WHEREOF, this Supplement has been executed by the duly authorized personnel of The Waterways Homeowners' Association, Inc. on this 16th day of August 2002.

Sandra M. Whipple
Witness as to the President

Robert A. Bowen
President of the Association

Spka B. White
Witness as to the President

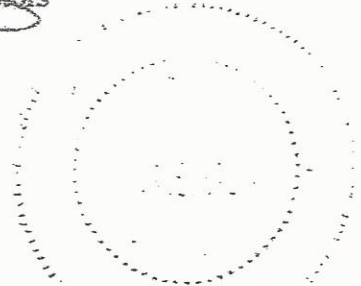
**IMAGED
JV**

Wail D. White
Witness as to the Chairman

Jay Hernandez
Chairman, Board of Directors

Janet M. Powell
Witness as the Chairman

(corporate seal)



*Waterways Villas
Homeowners' Association*