

58321

DECLARATION OF CONDOMINIUM
OF
CAPRI WEST
A CONDOMINIUM
VENICE, FLORIDA

O.R. 1407 PG 1427

1. SUBMISSION TO OWNERSHIP. CAPRI WEST, INC., a Florida corporation of Venice, Florida, does hereby submit to condominium ownership pursuant to Chapter 718, Florida Statutes, known as "The Condominium Act," a fee simple interest in the land and improvement, situated lying and being in the County of Sarasota, State of Florida, being more particularly described in attached Exhibit "A" as Phases "A", "B" and "C".

2. NAME. The name by which this condominium shall be known and identified is CAPRI WEST, a condominium, and its address is Venice, Florida.

3. DEFINITIONS. The terms used in this Declaration and in its exhibits shall have the meaning stated in the Condominium Act, Section 718, Florida Statutes, and as follows, unless the context otherwise requires:

3.1 APARTMENT OR UNIT means unit as defined by the Condominium Act.

3.2 OWNER OR APARTMENT OWNER means unit owner as defined by the Condominium Act.

3.3 ASSOCIATION means CAPRI WEST CONDOMINIUM ASSOCIATION, INC. and its successors.

3.4 COMMON ELEMENTS shall include the tangible personal property required for the maintenance and operation of the condominium even though owned by the Association, as well as the items stated in the Condominium Act.

3.5 COMMON EXPENSES INCLUDE:

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

b. Expenses declared common expenses by provisions of this Declaration, the By-Laws, or the Board of Directors of the Association.

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

d. Charges for utility services except such services as are metered separately to each unit.

3.6 CONDOMINIUM means CAPRI WEST, as well as the meaning stated in the Condominium Act.

D-1

Ten

EXHIBIT - #1

✓ will pick up

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

3.8 UTILITY SERVICES. As used in the Condominium Act and as construed with reference to this condominium, and as used in the Declaration and By-Laws, shall include but not be limited to electric power, gas, hot and cold water, garbage and sewage disposal, and cable television apparatus.

3.9 DEVELOPER means CAPRI WEST, INC., its successors and assigns.

3.10 LIMITED COMMON ELEMENTS means those common elements which are reserved for the use of a certain condominium unit or units to the exclusion of other condominium units, as the same are identified in Exhibit "A" attached and set forth herein.

3.11 UNIT means that part of the condominium property that is subject to exclusive ownership as more fully defined in Exhibit "A".

3.12 UNIT OWNER means the owner of a condominium unit.

4. SURVEY AND FLOOR PLOT. 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 a floor plan identifying each unit and the common elements, and their relative locations and approximate dimensions are attached hereto, incorporated herein and marked Exhibit "A". The Exhibit also contains the legal description of the land which may become part of the condominium pursuant to phase development together with the legal description for each phase, plot plan and a floor plan identifying each unit and the common elements which may be completed in each phase.

5. PHASE DEVELOPMENT. The Developer contemplates the submission of five (5) additional phases to the condominium for a maximum of eight (8) phases with a total of sixty-eight (68) units, as more fully shown on Exhibit "A" attached.

5.1 DEVELOPMENT PLAN. The development plan is to develop the condominiums in eight (8) phases. The Developer is not obligated to develop any or all of the other phases. The Developer may develop more than one phase at any one time. The order in which the phases are developed shall be at the discretion of the Developer subject to the limitations herein set forth.

(a) The number and general size of each unit in each phase is depicted on Exhibit "A".

(b) The time period within which each phase must be completed is as follows:

Phase "A"	December 31, 1981
Phase "B"	December 31, 1982
Phase "C"	December 31, 1983
Phase "D"	December 31, 1984
Phase "E"	December 31, 1985
Phase "F"	December 31, 1986
Phase "G"	December 31, 1987
Phase "H"	December 31, 1988

O.R. 1407 PG 1429

5.2 ADDITIONAL PHASES. Additional phases as they are completed shall be added to the condominium property by the Developer executing and recording an amendment to this Declaration of Condominium. A proforma copy of the amendment is attached as Exhibit "B" hereto.

5.3 CONSENT NOT REQUIRED. The approval, consent or joinder is not required of the Association or the owners of any condominium units for such amendment to the Declaration of Condominium.

5.4 VARY THE SIZE AND PLAN OF UNITS. The Developer may vary the size and plan of units in the phases.

5.5 IMPACT OF ADMISSION OF ADDITIONAL PHASES. The admission of additional phases to the condominium will increase the amount of common elements. The total cost of maintaining the common elements and the cost of operating the Association will increase. Eventually, the number of members in the Association will increase.

5.6 NO TIME SHARER ESTATES. No time sharer estates will or may be created with respect to units in any phase.

6. RECREATION FACILITIES. Two recreation areas are contemplated, area #1 and area #2.

6.1 OWNERSHIP OF FACILITIES. The recreation areas will be owned in fee simple by the Association.

6.2 AREA #1. Area #1 will contain a 20 foot by 40 foot elliptical pool 3 1/2 to seven feet deep with a 10 foot wide pool deck, two rest rooms, outdoor shower and a minium of \$100.00 worth of equipment.

a. Area #1 will accommodate a maximum of 27 people.

b. Construction of area #1 shall commence prior to the completion of Phase "C"; and it shall be completed prior to December 31, 1983.

c. The pool will not be heated.

6.3 AREA #2. Area #2 will contain a 20 foot by 40 foot pool, 3 1/2 to seven feet deep with a pool deck of approximately 2,000 feet square feet, a recreation building consisting of two bathrooms, a kitchen, a social room and an outdoor shower.

a. The recreation building will be approximately 20 foot by 40 foot, the bathrooms 9 feet by 5 feet 6 inches each, the kitchen 9 foot by 11 foot and the social room 27 feet by 20 feet. The social room will accomodate 50 people.

b. The Developer will spend a minium of \$500.00 on equipment for area #2.

c. Area #2 will accommodate a maxiumum of 77 people.

d. Contruction of area #2 shall commence prior to the completion of phase "G" and will be completed prior to December 31, 1987, barring circumstances beyond the Developers control.

e. The pool will not be heated.

O.R. 1407 PG 1430

6.4 CONSTRUCTION AND CONVEYANCE NOT GUARANTEED. There is no guarantee that recreation area #2 will ever be constructed and conveyed to the Association. If construction of condominium Phase "G" commences, recreation area #2 will be constructed.

6.5 WHEN CONVEYED TO ASSOCIATION. As each recreation area is completed, fee simple title will be conveyed by the Developer to the Association free and clear of all encumbrances except taxes for the year of conveyance, restrictions, reservations and easements of record and the provisions of the condominium documents.

7. COMMON EXPENSES AND COMMON SURPLUS. Common expenses and common surplus shall be apportioned among unit owners in equal shares.

7.1 OWNERS IN PHASE "A", "B" and "C". Until additional phases are added to the condominium, the owners in Phases "A", "B" and "C" shall be responsible for all of the common expenses and all of the common surplus.

7.2 ADDITION OF ADDITIONAL PHASES. As additional phases are submitted to condominium ownership, the common expenses and the common surplus shall be shared equally among the owners of units in the phases submitted to condominium ownership.

7.3 FORMULA FOR SHARING. The formula for sharing the common expenses, the common surplus and the ownership of the common elements is a fraction. The numerator being one and the denominator being the number of units that are in the phases which have been submitted to condominium ownership and shall change as new phases are submitted. A unit shall not be counted in the denominator until the unit is substantially completed and a certificate of occupancy has been issued on the unit by the City of Venice. In Phase "A", the fraction shall be 1/8th. When Phase "B" is completed, 1/16th, and when Phase "C" is completed, 1/24th. If Phase "H" is completed and submitted to condominium ownership, the fraction will be 1/68th.

8. EASEMENTS AND RESERVATIONS. The following easements are expressly provided for and reserved in favor of the Developer, the owners and occupants of the condominium units, in Phases "A", "B" and "C" and phases subsequently submitted to condominium ownership, their successors or assigns and their guests and invitees as follows:

8.1 UTILITIES. Easements are hereby expressly reserved and the Developer, its successor or assigns are hereby granted easements through the condominium property as may be required for utility services to service Phases "A", "B" and "C", the recreational areas, and any other phases subsequently submitted to condominium ownership. This grant of easement includes the right to install and maintain all necessary equipment upon the condominium property and to enter upon the condominium property to service the same.

8.2 INGRESS AND EGRESS. Phases for ingress and egress on foot and by vehicle as may be necessary across the condominium property to condominium units, recreation areas not submitted to condominium ownership and other improvements located on other portions of the condominium property provided, however, that under no circumstances shall such ingress and egress be allowed through or over any condominium unit.

8.3 CONSTRUCTION AND REPAIR OF UNITS. For the construction, reconstruction, maintenance repair, or replacement of any condominium unit including those in phases under development and not yet admitted to condominium ownership.

O.R. 1407 PG 1431

8.4 COVENANTS RUNNING WITH THE LAND. The above easements are covenants running with the land comprising the common elements and the condominium units, and in favor of the Association, other condominium unit owners including their guests and tenants, the Developer, suppliers of utility services, the owners of adjacent lands comprising Phases "D" through "H", and all recreation areas as described on Exhibit "A" attached, and the holders of any mortgages on the same, their successors and assigns to the extent reasonably needed by each.

8.5 DIRECTORS MAY GRANT EASEMENTS. The Board of Directors by a majority vote may grant temporary and permanent easements throughout the condominium property when they find that the granting of such easements would be in the best interest of the unit owners. Under no circumstances, however, shall they be allowed to grant easements through or over any condominium unit.

9. THE ASSOCIATION. The operation of the condominium shall be by CAPRI WEST CONDOMINIUM ASSOCIATION, INC., a non-profit Florida corporation. A copy of the Certificate of Incorporation, Articles of Incorporation, and By-Laws are attached hereto as Exhibits "D", "E" and "F" respectively.

9.1 MEMBERSHIP. Each condominium unit owner shall be a member of the Association. No one who is not a unit owner shall be a member of the Association. Each unit owner agrees that he shall accept membership in the Association and agrees to be bound by this Declaration, the Articles of Incorporation, and By-Laws of the Association as well as the rules and regulations enacted by the Board of Directors. Membership in the Association is automatic upon acquisition of a condominium unit, and may not be transferred separate and apart from a transfer of ownership of the condominium unit. Membership shall likewise automatically terminate upon a sale or transfer of the condominium unit, whether voluntary or involuntary.

9.2 VOTING RIGHTS AND QUALIFICATIONS. Voting rights and qualifications of voters are set forth in the Articles of Incorporation and By-Laws of the Association attached hereto as Exhibits "E" and "F" respectively.

9.3 NECESSARY POWER AND AUTHORITY. The Association shall have all of the power and authority reasonably necessary to operate the condominium in accordance with this Declaration. The By-Laws and Articles of Incorporation of the Association, including the power to adopt rules and regulations regarding the operation of the Association, and the use of condominium property to the extent that the same do not conflict with the provisions of this Declaration.

9.4 VOTING PRIVILEGES. Until subsequent phases are admitted to the condominium, the owners of units in Phases "A", "B" and "C" have the only voting privileges and are the only members of the Association except as set out heretofore. When subsequent phases are added to the condominium, each condominium unit and the phases so added shall have the same voting privileges as the existing members and the total number of members in the Association shall increase.

10. RIGHTS OF THE DEVELOPER. In addition to rights, privileges and exemptions reserved elsewhere, the developer reserves the following privileges, rights and exemptions to facilitate the development of this condominium.

O.R. 1407 PG 1432

10.1 TO CHANGE INTERIOR DESIGN AND ARRANGEMENT OF UNITS.

The right to change the interior design and arrangement of all units as long as the Developer owns the units so changed and altered. If the change requires a change in the Declaration of Condominium, such change shall be contained in an amendment of this Declaration and provided further that an amendment for such purposes need be executed and acknowledged only by the Developer and need not be approved by the Association, its officers, directors and members, or unit owners, whether or not elsewhere required for an amendment to this Declaration.

10.2 DESIGNATING THIRD PARTY AS A DEVELOPER.

In the event of financial difficulty wherein the mortgage lender acquires title to the units owned by the Developer, with or without foreclosure, or a third party buys all of the Developer's rights in the condominium, to designate the mortgage lender or third party as the Developer, succeeding to all of the rights of the Developer.

10.3 AMEND THE DECLARATION.

To amend the Declaration for the admission of additional phases to condominium ownership, as mentioned in Section 5.2 and elsewhere in this Declaration. Such amendment need not be approved by the Association, its officers, directors, or member unit owners.

11. USE OF UNITS. The Developer may make such use of the unsold units and common areas as may facilitate completion and sale of the condominium units.

11.1 EASEMENT RESERVATION.

The Developer reserves an easement on, above and below the property submitted to condominium ownership in connection with the development of the adjacent phases and other property abutting the condominium. Such easement shall give the Developer the right to temporarily deny the use of certain portions of the property to members of the Association and the right to temporarily remove portions of the improvements on the lease property (except for units), provided that as soon as the Developer's need for the easement is completed, any improvements removed or disturbed shall be restored to their original condition at the Developers expense. These easements shall not run through, under or over any condominium unit.

11.2 RIGHT TO MODEL.

The Developer shall have the right to utilize one of each different type of apartment unit as a model until such time as the Developer has sold the last unit owned by him in the condominium.

11.3 RIGHT TO SIGNS.

The Developer shall have the right to locate on the condominium property in conformity with city ordinances signs advertising the model units.

11.4 THE RIGHT TO MAKE CHANGES PRIOR TO RECORDING.

Notwithstanding any provision in this Declaration to the contrary, the Developer reserves to itself the right to make changes in the Declaration of Condominium (to include but not limited to building location, unit layout, and exterior and interior building dimensions), at any time prior to recording the Declaration without seeking prior approval of purchasers under existing contracts, and if such changes materially affect a purchaser, the purchaser shall be notified of the change and be given an opportunity to terminate his contract and secure a refund of his earnest money deposit.

1433
O.R. 1407 PG

11.5 RIGHT TO MAKE CHANGES IN PLANS AND SPECIFICATIONS.

The Developer also reserves to itself the right both before and after recording the Declaration, to make any changes necessary in the building plans and specifications which the developer or architect deem necessary because of changes in the law, production scheduling, shortage, or other reasons, and to make the necessary amendments to the Declaration of Condominium without the necessity of securing prior approval of the officers, directors, members and unit owners.

11.6 USE RESTRICTIONS. The use of the property of the condominium shall be in accordance with the following provisions as long as the condominium exists and the buildings in useful condition exist upon the land.

a. The condominium property shall be used only for single family residences and for the furnishing of services and facilities herein provided for the enjoyment of such residences. Each of the units for which provision is made by the condominium documents shall be occupied only by a single family as its residence and for no other purpose.

b. No nuisance shall be allowed upon the condominium property which interferes with the peaceful possession and proper use of the property by its residents. All parts of the property shall be kept in a clean and sanitary condition and no rubbish, refuse, or garbage allowed to accumulate, nor any fire hazard allowed to exist.

c. No immoral, improper, offensive or unlawful use shall be made of the condominium property, nor any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance modification or repair of the condominium property shall be the same as the responsibility for maintaining and repair of the property concerned.

11.7 COMMERCIAL USE. Subject to the Developer's reservations and rights, no part of the condominium property shall be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other non-residential purposes, provided however that the Association shall have the right to provide or authorize such services on the common elements as it deems appropriate for the enjoyment of the common elements and for the benefit of condominium unit owners.

a. MASTS AND ANTENNAS. No exterior masts or antennas or other similar structures for the transmitting or receiving of radio or television signals shall be erected, permitted or maintained upon the exterior of any condominium unit or elsewhere within the condominium property, except as allowed by uniform rules and regulations.

b. SIGNS. No sign or billboard of any kind, including but not limited to "For Rent", or "For Sale" signs shall be displayed to the public view on any portion of the condominium property except such signs as may be used by the developer or sales agents in connection with the development of the condominium pursuant to Section 11.3 and such as may be installed by the Association for common benefit of unit owners or as may be allowed by uniform rules and regulations.

11.8 PARKING. Each unit will be assigned a covered parking space with a number corresponding to the number of the unit. That space is a limited common element for the exclusive use of the unit and such use shall pass to the subsequent owners of the unit. In addition, sufficient uncovered parking space will be provided so that there will be at least one (1) uncovered parking space for each unit. The uncovered parking spaces shall be available to all unit owners on a non-exclusive use basis.

11.9 PETS. Pets are allowed to be kept on the premises under the following terms and conditions.

a. If in the opinion of a majority of the Board of Directors a particular pet constitutes a nuisance, then the owner when so notified shall be required to immediately remove said pet from the premises.

b. Animals must be on a leash outside of the owners unit, and the owner must be responsible for picking up and disposing of the animals waste.

c. Animals may not be left in screened enclosures while the owner is away.

11.10 REGULATIONS. Reasonable uniform regulations concerning and limiting the use of the condominium property may be made and amended from time to time by the Board of Directors of the Association in accordance with the Articles of Incorporation and By-Laws. Such regulations may include regulations in implementation of these restrictions as well as others that are not in conflict with the covenants and restrictions contained in this Declaration. Copies of such regulations and amendments thereto shall be furnished by the Association to all condominium unit owners and residents of the condominium.

11.11 WINDOW COVERING. All window covering which may be viewed from outside the condominium unit must be white or off-white color.

12. TRANSFER OF CONDOMINIUM UNIT. In order to maintain a community of congenial residents and protect the value of the condominium property, and in order to assure insofar as possible the financial ability of each condominium unit owner to pay assessments against his condominium unit, the transfer of condominium units by any owner other than the Developer shall be subject to these restrictions, so long as the condominium property shall be subject to the condominium form of ownership under the Laws of Florida.

12.1 TRANSFER, SALE OR LEASE OF UNIT. No condominium unit owner or other person may either transfer or acquire title on or to any interest in any condominium unit, or having so acquired such interest, continue to hold ownership of any such interest, except with approval of the Association in accordance with the provisions of this Section. The provisions of this Section shall apply to any transfer of a condominium unit or any interest therein, whether made by sale, lease for more than one (1) year, gift, devise, inheritance, transfer to or from a trustee, mortgage, transfer by enforcement of lien or other involuntary transfer by operation of law, or any other voluntary or involuntary transfer of any such interest. Transfers contemplated hereby shall include, but not be limited to, the transfer and creation of remainder or other future interests, creation of life estates, distribution by trustees, creation of joint or common ownership interests, with or without survivorship rights, and any other transfer or transaction or act by which title to or any interest in a condominium unit either is transferred or may be subject to automatic transfer upon the occurrence or nonoccurrence of an event yet to transpire. A unit may not be leased for less than thirty (30) days.

12.2 PROCEDURE FOR SALE, TRANSFER OR LEASE. The procedure for review and approval or disapproval by the Association are:

a. Notice to the Association:

1. Sale, Lease, Gift or Transfer in Trust - A unit owner intending to sell or lease his unit, or any interest

O.R. 1407 PG 1435

therein, or intending to make a gift of such unit or interest therein, or to transfer any interest to a trust, shall give notice to the Association of such intention, together with the name and address of the intended purchaser, lessee, donee, or trustee, and such other information as the Association may reasonably require. Notice of a lease shall be accompanied by a copy of the proposed lease. Such notice, if a sale, at the unit owner's option may include a demand by the owner that the Association furnish a purchaser if the proposed purchaser is not approved. If such demand is made, the notice shall be accompanied by a copy of the executed proposed contract of sale.

2. Devise, Inheritance or Distribution by Trust -

A condominium unit owner who has obtained his title, or interest in a unit, by devise, inheritance, distribution of a beneficial interest under a trust or by any other manner not heretofore considered, shall give to the Association notice of the acquisition of the title, together with such other information concerning the unit owner and his acquisition as the Association may reasonably require, together with a certified copy of the instrument evidencing the condominium unit owner's title, unless the requirement of certification is waived by the Association.

b. Certificate of Approval or Disapproval:

1. Sale, Lease, Gift or Transfer in Trust - If the proposed transaction is one for which notice has been given the Association pursuant to 12.2 (a)(1) above, the Association shall have thirty (30) days after receipt of such notice and such other information as the Association may require within which either to approve or disapprove of the proposed transaction. Such approval or disapproval shall be stated in a certificate executed by officers or agents of the Association thereunto duly authorized in recordable form.

2. Other Acquisition - If the transaction is one for which notice has been given to the Association pursuant to 12.2 (b)(1) above, then the Association shall have thirty (30) days after receipt of such notice and other information as the Association may require within which either to approve or disapprove of such transaction and the continuance of the condominium unit owner's ownership interest in the condominium unit. A certificate of approval or disapproval shall be executed by the officers or agents of the Association thereunto duly authorized in recordable form and delivered to the person who had given such notice within thirty (30) days after having received the notice.

c. Disapproval by Association: If the Association shall disapprove a transfer of ownership of a unit, or an interest therein, the Association shall follow the following procedures:

1. If the proposed transaction is a sale, the Association shall deliver to the condominium unit owner an agreement to purchase by a purchaser approved by the Association, other than the Association itself, who will purchase and to whom the unit owner must sell the condominium unit or interest therein upon the following terms:

(a) The price to be paid shall be that stated in the disapproved contract to sell, and the notice shall be accompanied by a deposit check in the amount of the deposit reflected in such contract. All other terms shall be the same as those provided for in the disapproved contract, except that the closing date shall be not less than thirty (30) days after the delivery or mailing of said agreement to purchase.

(b) The unit owner may, at his option, after receipt of such agreement from the Association, elect not to proceed with the sale.

O.R. 1407 PG 1436

2. If the proposed transaction is a lease the unit owner shall be advised of the disapproval in writing and the lease shall not be permitted.

3. If the Association has disapproved a transaction or acquisition other than in the circumstances provided for by subsections (1) and (2) of this section, including without limitation instances of gift, devise, inheritance, distribution by a trust or acquisition of title to a condominium unit or any interest therein by any other voluntary or involuntary procedure, then within thirty (30) days the Association shall deliver to the unit owner an agreement to purchase by a purchaser approved by the Association to whom the unit owner must sell the condominium unit or the interest therein transferred or acquired, upon the following terms:

(a) The sales price for the interest shall be the fair market value thereof determined by agreement between the owner of such interest and the purchaser within thirty (30) days from the delivery of such agreement, and in the absence of an 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 arbitrator shall be two appraisers appointed by the American Arbitration Association. The arbitrators shall base their determination upon the average of their separate appraisals of the condominium unit, or interest therein. A judgement 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 arbitration shall be paid by the purchaser.

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

(c) The sale shall be closed within fifteen (15) days following the determination of the sales price.

(d) Corporate or Partnership Owners: The approval of ownership by the corporation or partnership may be conditioned upon the requirement that all persons who shall occupy the condominium unit pursuant to such ownership shall also be approved by the Association.

(e) Mortgages: The condominium unit owner may mortgage his condominium unit or any interest therein without the approval of the Association, to an institutional mortgagee, the Developer or the successors in interest to the Developer. The approval of any other mortgagee is required of the Association. Nothing herein contained shall prevent the owner of a condominium unit from receiving a purchase money mortgage as part of the consideration for an approved sale of his condominium unit, or an interest therein.

(f) Approval Standards: The Association shall administer its approval and disapproval authority under this article in a fair, equitable and uniform manner. In making its determination, the Association shall consider the apparent ability of the proposed owner to meet the financial obligations of condominium unit ownership and membership in the Association; the probable willingness and likelihood that such person will abide by the provisions of this Declaration and all applicable rules and regulations pertaining to the condominium unit; and such other factors as may be relevant to the maintenance and operation of the condominium property in a harmonious manner.

(g) Exceptions: The provisions of this section shall not apply to a transfer to or purchase by an institu-

tional mortgagee, acquiring its title as a result of owning a mortgage upon a condominium unit, whether such title is acquired through foreclosure proceedings or by deed in lieu of foreclosure proceedings or the provisions of this section shall not apply to a transfer, sale or lease by the Developer.

Approval shall not be required by the Association of a purchaser who acquires title to a condominium unit at a duly advertised public sale, with open bidding, which is conducted pursuant to law, including but not limited to execution sales, foreclosure sales, judicial sales and tax sales.

Approval shall not be required by the Association of a sale of a unit to an existing member of the Association.

(h) Separation of Condominium Unit Prohibited: Any sale or transfer of a condominium unit, or interest therein, shall include all of the appurtenances thereto, including the limited common element appurtenant whether so stated or not, and no appurtenance may be severed from a condominium unit and sold, transferred or otherwise dealt with separate and apart from the condominium unit to which it is appurtenant. No condominium unit may be partitioned or further subdivided; provided, however, that this provision shall not be deemed to prevent ownership of a condominium unit in undivided interests.

(i) Unapproved Transactions: Any sale, conveyance, mortgage, lease or other transfer which is not authorized or approved pursuant to the terms of this Declaration shall be voidable, unless subsequently approved by the Association.

(j) Fees for Review: No fees shall be charged by the Association in connection with the review for purposes of approval or disapproval pursuant to this section, which are in excess of the expenditures reasonably required for such review. In no event shall such fee exceed the fee permitted under the Condominium Act, from time to time, which at the time of creation of this Condominium is \$50.00.

(k) Notices of Lien or Suit:

1. Notice of Lien: A unit owner shall give notice, in writing, to the Association of every lien upon his unit, other than permitted mortgages, taxes and special assessments, within five (5) days after the attachment of the lien.

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

3. Failure to Comply: Failure to comply with this subsection shall not be construed to affect the validity of any lien or suit.

13. MAINTENANCE ALTERATIONS AND IMPROVEMENTS: The responsibility for maintenance and the rights to make alterations or improvements shall be as follows:

13.1 COMMON ELEMENTS: The common elements to include limited common elements shall be maintained by the Association as a common expense.

13.2 CONDOMINIUM UNIT: The individual unit owner shall be responsible for maintaining in good condition and repair his condominium unit and all interior surfaces within or surrounding his unit, such as the surfaces of the walls, ceilings, floors, whether or not part of the unit or common elements, and maintain and repair the fixtures therein and pay for any utilities which are separately metered to his unit. Porches may be enclosed in a manner approved by the Developer or Board of Directors.

13.3 INTERNAL ALTERATIONS OR IMPROVEMENTS: Internal alterations and improvements may be made within a unit by the unit owner without prior permission of the Board of Directors, unless such alterations or improvements will require changes in a load bearing wall or require the relocation of plumbing, electric, or other facilities servicing more than one condominium unit. In such event, approval of the Board of Directors must be obtained.

13.4 ASSESSMENTS: The Association shall have the authority to make, collect, and enforce assessments, special assessments, and such other assessments as required to carry out the Association's duties as set forth in this Declaration and Exhibits attached hereto.

14. COMMON EXPENSES, LIABILITIES, LIENS AND PRIORITIES, INTEREST AND COLLECTION: A unit owner, regardless of how title is acquired, shall be liable for his share of all common expenses coming due while he is owner of the unit. In a voluntary conveyance the grantor shall be jointly and separately liable with the Grantee for the unit's share of unpaid common expenses up to the time of such voluntary conveyance, in determining the unit's share of common expenses, only units having certificates of occupancy shall be counted.

14.1 LIABILITY MAY NOT BE WAIVED: The liability for common expenses may not be avoided by waiver of the use or enjoyment of any common elements, or by abandonment of the condominium parcel.

14.2 SHALL BEAR INTEREST: A parcel share of the common expenses and installments thereon not paid within thirty (30) days of due date shall bear interest from the date when due until paid at the highest rate allowed by law.

14.3 ASSOCIATION SHALL HAVE A LIEN: The Association shall have a lien on each condominium parcel for the parcels share of any unpaid common expenses and interest thereon against the owner of such condominium parcel until paid. Such liens shall also include reasonable attorney fees incurred by the Association incident to the collection of such common expenses or enforcement of such lien. Such lien shall be executed in and recorded in the Public Records of Sarasota County, Florida, in the manner provided by law, but such liens shall be subordinant to the lien of any mortgage, or other liens recorded prior to the time of the recording of the claim of lien by the Association or its assigns.

14.4 FORECLOSURE OF LIENS: Liens for the unit's share of common expenses may be foreclosed by suit brought in the name of the Association in a like manner as foreclosure of a mortgage on real properties, as more fully set forth in Chapter 718, Florida Statutes.

14.5 MORTGAGEES LIABILITY FOR COMMON EXPENSES: Where a first mortgagee of record obtains title to a condominium parcel or where any other purchaser obtains such title as a result of the foreclosure of a first mortgage of record or where a first mortgagee accepts a deed to a condominium parcel in lieu of foreclosure, 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 such condominium parcel chargeable to the former owners of such parcel which become due prior to the 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, if possible, collected from the proceeds of the mortgage foreclosure sale, if any, which would otherwise accrue to the benefit of the unit owner against whom the foreclosure proceedings were maintained. In the event there are not sufficient funds available for such purpose, then, such unpaid share of common expenses or assessments shall be determined to be common expenses collectable from all of the unit owners including such acquirers, their heirs, legal representatives, successors and assigns.

15. DEVELOPER'S ASSESSMENTS: A Developer owning condominium units offered for sale may be excused from the payment of the share of the common expenses and assessments related to those units for a period of time that terminates no later than the first day of the fourth calendar month following the month in which the closing of the purchase and sale of the first condominium unit occurs. The Developer must pay the portion of common expenses incurred during that period which exceeds the amount assessed against other unit owners.

16. INSURANCE: The insurance, other than title insurance, that shall be carried upon the condominium property of the unit owners shall be governed by the following provisions:

16.1 NAMED INSURED: All insurance policies upon the condominium property shall be purchased by the Association. The named insured shall be the Association individually and as agent for the unit owners, without naming them, and as agent for their mortgagees. Provision shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of unit owners. Such policies shall provide that payments by the insurer for losses shall be made to the insurance trustee designated below, and all policies and their endorsements shall be deposited with the insurance trustee. Unit owners may obtain coverage at their own expense upon their personal property and for their personal liability and living expense.

16.2 COVERAGE:

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

1. Loss or damage by fire or other hazards covered by a standard extended coverage endorsement, and

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

b. PUBLIC LIABILITY: In such amounts and with such coverage as shall be required by the Board of Directors of the Association, including but not limited to hired automobile and nonowned automobile coverages, and with cross liability endorsement to cover liabilities of the unit owners as a group to a unit owner.

c. WORKMEN'S COMPENSATION policy to meet the requirements of law.

d. SUCH OTHER INSURANCE as the Board of Directors of the Association shall determine from time to time to be desirable or as shall be required by the law.

16.3 PAYMENT OF PREMIUMS: Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense.

16.4 POLICIES FOR BENEFIT OF: All insurance policies purchased by the Association shall be for the benefit of the Association and the unit owners and their mortgagees as their interests may appear and shall provide that all proceeds covering property losses shall be paid to such bank in Florida with trust powers as may be designated as insurance trustee by the Board of Directors of the Association, which Insurance Trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the proceeds in trust for the purposes elsewhere stated in this instrument and for the benefit of the unit owners and their mortgagees in the following shares, but which shares need not be set forth on the records of the Insurance Trustee.

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

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

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

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

c. In the event a mortgagee endorsement has been issued as to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interests may appear; provided, however, that a mortgagee shall have the right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired. The mortgagee shall have the right to apply or have applied to the reduction of a mortgage debt any insurance proceeds payable to the unit owner and mortgagee pursuant to the provisions of this Declaration.

16.5 PROCEEDS DISTRIBUTION: Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

a. All expenses of the Insurance Trustee shall be paid first or provision made for such payment.

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

are inadequate to repair and reconstruct same, and provided that the mortgagees agree, and that 75 per cent of the voting members vote against levying the special assessments and in favor of abandonment, the project shall be abandoned, and the condominium terminated.

17.5 EVIDENCE OF ABANDONMENT: As evidence of the members' resolution to abandon, the president and secretary of the Association shall execute and place in the Public Records of the County an Affidavit stating that such resolution was properly passed to which a copy of consent of 75 per cent of the unit owners and holders of all liens shall be affixed, and upon the filing of such resolution the condominium shall be terminated.

17.6 CERTIFICATE: The Insurance Trustee may rely upon a certificate of the Association made by its president and secretary to determine whether or not the damaged property is to be reconstructed or repaired.

17.7 IN ACCORDANCE WITH PLANS, any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building, or, if not, then according to plans and specifications approved by the Board of Directors of the Association, and if the damaged property is a building, by the owners of not less than 75 per cent of the common elements.

17.8 ESTIMATES OF COST: Immediately after a determination is made to rebuild or repair damage to property, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

17.9 DISBURSEMENT: The funds for payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Insurance Trustees and funds collected by the Association from assessments against unit owners, shall be disbursed in payment of such costs in the following manner:

a. ASSOCIATION: If the total of assessments made by the Association in order to provide funds for payment of costs of reconstruction and repair is more than \$5,000.00, then the sums paid upon such assessments shall be deposited by the Association with the Insurance Trustee. In all other cases, the Association shall hold the sums paid upon such assessments and disburse them in payment of the costs of reconstruction and repair.

b. INSURANCE TRUSTEE: The proceeds of insurance collected on account of a casualty and the sums deposited with the Insurance Trustee by the Association from collections of assessments against unit owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:

1. If the amount of the estimated costs of reconstruction and repair is less than \$5,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Association.

2. If the amount of the estimated costs of reconstruction and repair is more than \$5,000.00, then the construction fund shall be disbursed in payment of such costs and in the manner required by the Board of Directors of the Association and upon approval of an architect qualified to practice in Florida and employed by the Association to supervise the work.

3. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be

from insurance proceeds. If there is a balance in a construction fund after payment of all costs of reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated; except, however, that the part of a distribution to a beneficial owner that is not in excess of assessments paid by such owner into the construction fund shall not be made payable to any mortgagee.

4. Notwithstanding the provisions of this instrument, the Insurance Trustee shall not be required to determine whether or not sums paid by the unit owners upon assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order to the Association or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine the payee, nor the amount to be paid. Instead, the Insurance Trustee may rely upon a certificate of the Association made by its president and secretary as to any or all of such matters, and stating that the sums to be paid are due and properly payable, and stating the name of the payee and the amount to be paid; provided that when a mortgagee is required in the instrument to be named as payee, the Insurance Trustee shall also name the mortgagee as a payee of any distribution of insurance proceeds to a unit owner; and further provided that when the Association, or a mortgagee that is the beneficiary of an insurance policy whose proceeds are included in the construction fund so requires, the approval of an architect named by the Association shall be first obtained by the Association prior to disbursement in payment of costs of reconstruction and repair.

18. ASSOCIATIONS' AUTHORITY TO PURCHASE CONDOMINIUM UNITS:
The Association may upon the prior written approval or affirmative vote of 75 per cent of the owners of the condominium units purchase a condominium unit at any public or private sale.

18.1 MAY OBTAIN MORTGAGE: In furtherance of the authority granted in this section the Association may with such approval assume or place a mortgage upon such unit for the purpose of purchase, repair, rebuilding, or reconstruction.

18.2 COST, A COMMON EXPENSE: All cost incurred by the Association in exercising any of its authority under this section shall be deemed a common expense and collected by regular or special assessment.

19. COMPLIANCE AND DEFAULT: Each unit owner shall be governed by and shall comply with the terms of the Declaration of Condominium, Articles of Incorporation, and ByLaws, and the regulations adopted pursuant to those documents, as the same may be amended from time to time. Failure of a unit owner to comply with such documents and regulations shall entitle the Association or other unit owners with the following relief in addition to the remedies provided by the Condominium Act:

19.1 THE EXPENSES INCURRED: A 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 unit owner shall pay the Association the amount of any increase in its insurance premiums occasioned by use, misuse, occupancy, or abandonment of a unit or its appurtenances, or of the common elements, by the unit owner.

19.2 PREVAILING PARTY SHALL BE ENTITLED TO RECOVER COSTS: In any proceeding arising because of an alleged failure of a unit owner or the Association to comply with the Declaration and other documents included therein, or the regulations adopted pursuant to them, and the documents and regulations as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorney's fees as may be awarded by the court in both lower and appellate proceedings.

19.3 FAILURE TO ENFORCE: The failure of the Association or any unit owner to enforce any covenant, restriction, or other provision of the Condominium Act, this Declaration, the Articles of Incorporation, the By-Laws, or the regulations shall not constitute a waiver of the right to do so thereafter.

20. AMENDMENT TO THE DECLARATION AND BY-LAWS: The Declaration of Condominium and By-Laws of the Association shall be amended in the manner prescribed by the laws of the State of Florida. The right of the Developer to amend the Declaration as set forth elsewhere in this Declaration are not affected by this section.

21. ADDITIONAL RIGHTS OF INSTITUTIONAL MORTGAGEES: Any institutional mortgagee shall upon request have the following rights:

21.1 COPY OF FINANCIAL STATEMENT AND BUDGET: To be furnished with at least one copy of the annual financial statement and report and budget of the Association.

21.2 NOTICE OF MEETINGS: To be given written notice by the Association of the call of a meeting of the condominium unit owners to be held for the purpose of considering any proposed amendment to this Declaration or the By-Laws of the Association, which notice shall state the nature of the amendment being proposed.

21.3 NOTICE OF DEFAULT: To be given written notice of any default by the owner of any condominium unit encumbered by a mortgage held by such institutional mortgagee in the performance of such condominium unit owners obligations under the Declaration, Articles, By-Laws or Regulations, which is not cured within thirty (30) days.

21.4 INSURANCE ENDORSEMENT: To be given an endorsement of the insurance policies covering the common elements and the condominium units, if applicable, which endorsement shall require that such institutional mortgagee be given any notice of cancellation provided for in such policy.

21.5 EXAMINATION OF BOOKS AND RECORDS: Upon reasonable notice the books and records of the Association may be examined during normal business hours.

22. TITLE TO PRIVATE ROAD: It is the Developer's intention to convey title to the private road described in Exhibit "C" attached to the Association subject to the existing rights of the residence of CAPRI VILLAGE EAST to use the road and reserving in the Developer the right to grant further easements over, under and across the road for ingress and egress to and from other properties serviced by the road and to grant utility easements in connection with the road. Providing, however, that other individuals or groups receiving the right of ingress and egress over the road shall be required as part of the consideration for receiving such right to contribute on a prorata basis to the maintenance of the road. The road may be conveyed by the Developer at any time to the Association and in no event shall it be conveyed later than the time of the submission of Phase "H" to condominium ownership.

23. TERMINATION. This condominium may only be terminated as provided for in the Condominium Act or upon the written agreement of

1445
O.R. 1407 PG

all of the condominium unit owners and all record owners of all mortgages on the condominium unit and common elements. This section concerning termination cannot be amended without written consent of all of the condominium unit owners and all record owners of all mortgages.

24. SEVERABILITY: The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase, or work, or other provision of this Declaration of Condominium and the Articles of Incorporation, ByLaws and Regulations shall not affect the validity of the remaining.

25. INTERPRETATION: Whenever the context so requires, the use of any gender shall be deemed to include all genders and the use of the plural shall include the singular and the singular shall include the plural. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a condominium in accordance with the laws made and provided for same.

26. EXHIBITS: All exhibits attached hereto are incorporated herein by reference and made a part hereof.

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed in its name, by its president, and its corporate seal affixed this 24th day of November, 1988

WITNESSES

CAPRI WEST INC.

Gyette M. Becker
Barbara Spindler

BY: Robert S. Hamilton (SEAL)
ROBERT S. HAMILTON
as President

THE FIRST NATIONAL BANK OF VENICE, through its undersigned officer, hereby joins in this Declaration of Condominium of CAPRI WEST for the purpose of subordinating its construction mortgage interest to the Declaration of Condominium.

WITNESSES:

THE FIRST NATIONAL BANK OF VENICE

Carol Long
Victoria ...

BY: Robert E. Kobon (SEAL)
ROBERT E. KOBON
as Vice President

1446

09.1407 PG

STATE OF FLORIDA)
COUNTY OF SARASOTA)

I HEREBY CERTIFY that on this day before me, an officer
duly qualified to take acknowledgments, personally appeared

ROBERT S. HAMILTON as President of CAPRI WEST, INC.,
a Florida corporation

to me known to be person described in and who executed the foregoing
instrument and he acknowledged before me that he executed the same
freely and as an officer of the corporation.

WITNESS my hand and official seal in the County and State
last aforesaid this 27th day of November, 1980.

Florence Stuedemann
Notary Public

My Commission expires:

July 5, 1981

STATE OF FLORIDA)
COUNTY OF SARASOTA)

I HEREBY CERTIFY that on this day before me, an officer
duly qualified to take acknowledgments, personally appeared

ROBERT E. KOSON, as Vice President of THE FIRST
NATIONAL BANK OF VENICE

to me known to be the person described in and who executed the fore-
going instrument and he acknowledged before me that he executed the
same freely and as an officer of the Bank.

WITNESS my hand and official seal in the County and State
last aforesaid this 25th day of November, 1980.

Carol Langford
Notary Public

My Commission expires:

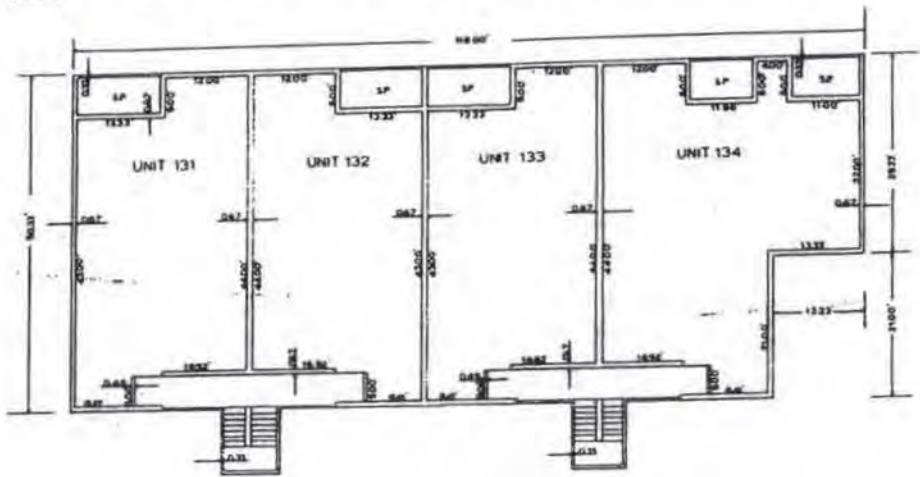
Notary Public, State of Florida
My Commission Expires Nov. 3, 1984

CAPRI WEST
A CONDOMINIUM

A PART OF SECTIONS 4 & 9, TOWNSHIP 39S, RANGE 19E,
CITY OF VENICE, COUNTY OF SARASOTA, STATE OF FLORIDA.

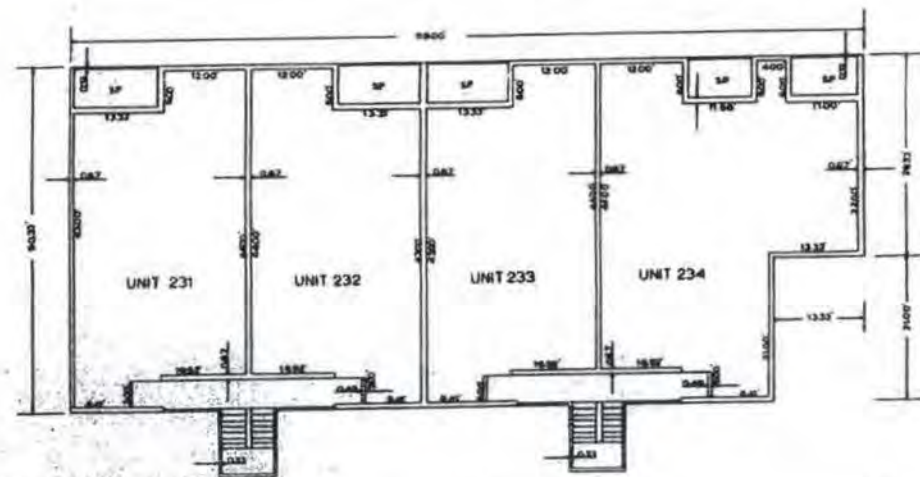
CONDOMINIUM BOOK 15, PAGE 289
SHEET 11 OF 11

ALL DIMENSIONS MEASUREMENTS; legibility of writing, typing or
printing for reproductive purpose may be unsatisfactory
in this document when received.



BUILDING H
1ST FLOOR

SCALE 1" = 10'



BUILDING H
2ND FLOOR

SCALE 1" = 10'

EXHIBIT A

PREPARED BY
R. F. "DICK" SUTTON
LAND SURVEYOR

AMENDMENT TO DECLARATION OF CONDOMINIUM
OF CAPRI WEST, A CONDOMINIUM
FOR ADMISSION OF PHASE _____

KNOW ALL MEN BY THESE PRESENTS: That the Declaration of Condominium of CAPRI WEST, a Condominium, recorded in Official Records Book _____, Pages _____ et seq., Public Records, Sarasota County, Florida, is hereby amended by the admission of as part of the Condominium property, the lands and improvements depicted and described on the attached exhibit recorded in Condominium Book _____, Pages _____ and _____, Public Records, Sarasota County, Florida.

DATED: _____

CAPRI WEST, INC.
a Florida corporation

BY: _____
President

(CORPORATE SEAL)

STATE OF FLORIDA)
COUNTY OF SARASOTA)

The foregoing instrument was acknowledged before me this _____ day of _____, 19____, by _____ as the President of CAPRI WEST, INC., a Florida corporation, on behalf of the corporation with full authority so to do as an Act and Deed of the corporation.

Notary Public

My Commission Expires:

"Exhibit-B"

02.1407 PG 1458