



INSTR # 6547151
OR BK 04511 Pgs 1523 - 1563; (41pgs)
RECORDED 12/06/2004 08:21:34 AM
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DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS

FOR
BELLEZZA
AND
AVALLONE

Instrument prepared by and after recording return to:

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

BELLEZZA

AND

AVALLONE

Harbourside Custom Homes, Inc., a Florida corporation, the present fee title owner of the real property described in Exhibit "A" and Exhibit "B", hereinafter called Declarant, to its grantees, successors and assigns and all future owners of Parcels located in Bellezza and Avallone, as more particularly described in Exhibits "A" and "B" attached hereto and made a part hereof, hereby makes the following Declaration of Covenants, Conditions and Restrictions.

It is the intent of the aforesaid Declarant to develop the real property, as described in Exhibits "A" and "B" (the "Committed Property"), as a residential planned development named "Bellezza" for the sixty (60') foot Lots and "Avallone" for the seventy five (75') foot Lots. Upon recording of this Declaration, Declarant hereby submits the Committed Property to the terms and conditions of this Declaration. For the purpose of enhancing and protecting the value, attractiveness and desirability of the residential units constituting such development, Declarant hereby declares that all of the Committed Property and each part thereof shall be developed as a residential planned development and shall be held, sold and conveyed only subject to the following easements, covenants, conditions and restrictions which shall constitute covenants running with the land and shall be binding on all parties having any right, title or interest in the above described property, or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each Owner thereof and the Association.

The Declarant may expand the Committed Property to include additional real property, by recording in the Public Records of Lee County, Florida, one or more "Supplemental Declarations." It is the intention of Declarant that such Supplemental Declarations will result in the total property subject to the easements, covenants, conditions and restrictions contained herein as constituting no more than fifty seven (57) lots (22 – 60 foot lots and 35 – 75 foot lots), as more fully described in Exhibits "A-2" and "B-2", attached hereto (the "Total Property"). Should Declarant fail to submit all of the Total Property by such Supplemental Declaration(s), the "Master Declarant" (as hereinafter defined) shall have the right to submit what remains of the Total Property and other property owned by the Master Declarant to this Declaration by such Supplemental Declaration(s) or to any other association to be formed by or controlled by the Master Declarant, for so long as any Lot remains unsold; or, the Master Declarant may expand any other local neighborhood(s) located within "Palmira" (as hereinafter defined) to include that portion of the Total Property which has not become Committed Property hereunder.

The Properties are located within a Planned Unit Development project known as Palmira Golf and Country Club ("Palmira"). All of the property located in Palmira Golf and Country Club is subject to certain restrictions and regulations as provided in the Declaration of Protective

Covenants, Restrictions and Easements for Palmira Golf and Country Club recorded in O.R. Book 3394, Page 609 of the Public Records of Lee County, Florida, as may be amended from time to time, herein referred to as the "Master Declaration".

The Master Declaration was created by "Master Declarant", the developer of Palmira, to provide for the preservation and maintenance of the appearance, value and amenities of Palmira. The Master Declaration provides for separately developed residential and recreational areas. These areas are governed by the Palmira Golf and Country Club Master Homeowner's Association, Inc. (the "Master Association"). Lot Owners in Bellezza and Avallone are obligated to pay assessments to the Master Association for the operation of the Master Association and maintenance, replacement, and repair of the common areas and recreation facilities located in Palmira Golf and Country Club provided, however, such obligation does not include the Golf Club or Golf Club Facilities (as those terms are defined in the Master Declaration) which are governed by the Golf Club Owner. The property is also subject to the Parklands Lee Community Development District (the "CDD") and Owners in Bellezza and Avallone are obligated to pay assessments to the CDD.

1. DEFINITIONS. The terms used in this Declaration and its exhibits shall have the definitions set forth in Chapter 720, Florida Statutes (2003), unless otherwise defined below (it being the intent that the substantive rights contained in this Declaration not be retroactively impaired by amendments to the Act, as defined below):

1.1 "Act" shall mean and refer to Chapter 720, Florida Statutes (2003), formerly referred to as Sections 617.301-312, Florida Statutes.

1.2 "Architectural Reviewer" means and refers to the entities described in Article 5 of this Declaration.

1.3 "Association" shall mean and refer to Bellezza and Avallone Homeowners' Association, Inc., a Florida corporation not for profit.

1.4 "Board or Board of Directors" means and refers to the Board of Directors of the Association.

1.5 "Common Area" means and refers to all real property which is now or hereafter owned by the Association or dedicated for use or maintenance by the Association or its members by a recorded plat or this Declaration or is otherwise intended to be a Common Area by Declarant.

1.6 "Community-Wide Standard" The standard of conduct, maintenance, or other activity generally prevailing throughout Bellezza and Avallone. Such standard is originally established by the Declarant and may be more specifically defined by the Board.

1.7 "Declarant" or "Developer" means and refers to Harbourside Custom Homes, Inc., a Florida corporation. Whenever either term is used in this Declaration, the Articles or Bylaws of the Association, it shall always be deemed to include any successor in interest to the Declarant's development rights and obligations.

1.8 "Declaration" means and refers to this Declaration of Covenants, Conditions and Restrictions for Bellezza and Avallone, and any amendments hereto.

1.9 "Family" or "Single Family" shall refer to one natural person; or a group of two or more natural persons living together each of whom is related to each of the others by blood, marriage, legal custody or adoption; or not more than two persons not so related, who reside together as a single housekeeping unit.

1.10 "Governing Documents" means and refers to this Declaration, and the Articles of Incorporation, Bylaws, Rules and Regulations and the Resolutions of this Association. In the event of a conflict in the interpretation of the Governing Documents, they shall be applied in the order of priority stated above.

1.11 "Guest" or "Guests" means any person or persons physically present in, or occupying a Living Unit on a temporary basis at the invitation of the owner or other legally permitted occupant, without the payment of consideration.

1.12 "Institutional Mortgagee" means the mortgagee or assignee of a first mortgage against a Parcel or Living Unit, which mortgagee or assignee is a bank, savings and loan association, mortgage company, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, or any agency of the United States of America. The term also refers to any holder of a mortgage against a Parcel or Living Unit which mortgage is guaranteed or insured (as evidenced by a recorded instrument) by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America or by any other public or private agency engaged in the business of purchasing, guaranteeing or insuring residential mortgage loans, and their successors and assigns. An "Institutional Mortgage" is a first mortgage held by an Institutional Mortgagee encumbering a Living Unit.

1.13 "Lease" means the grant by a living unit owner of a temporary right to occupy the owner's Living Unit for valuable consideration.

1.14 "Living Unit", "Unit" or "Residence" means and refers to any or all the residences which will be constructed on the Parcels, each intended for use and occupancy as a residence for a single family.

1.15 "Parcel", or "Parcels", "Lot" or "Lots" means one or more of the twenty-two (22) Lots depicted in Exhibit "A" hereto, or one or more of the thirty five (35) Lots depicted in Exhibit "B", or any future Lots that may become subject to this Declaration, upon each of which a Living Unit has been or is intended to be constructed. Wherever herein the term "Parcel" is used, it shall be interpreted as if followed by the words "and Living Unit constructed thereon" except where the context clearly requires otherwise.

1.16 "Master Association" shall mean and refer to Palmira Golf and Country Club Master Homeowner's Association, Inc., a Florida not-for-profit corporation.

1.17 "Member" means and refers to all persons who are members of the Association as provided in this Declaration, and in the Articles of Incorporation and Bylaws of the Association.

1.18 "Neighborhood" or "Properties" means and refers to all the Committed Property which is subject to this Declaration or submitted by Supplemental Declaration. "Neighborhood" or "Properties" shall also have the same meaning as the term "Community" as defined in Chapter 720, Florida Statutes (2003).

1.19 "Occupant" or "Occupy" when used in connection with a Living Unit, means any person who is physically present in the Living Unit on two or more consecutive days, including staying overnight.

1.20 "Owner" means and refers to any person or persons, entity or entities, who are the record owner of the fee simple title to any Parcel in Bellezza and Avallone.

1.21 "Primary Occupant" means the natural person approved for occupancy, together with his family, when title to a Living Unit is held in the name of more than two persons, or by a trustee or a corporation or other entity which is not a natural person.

1.22 "Rules and Regulations" means and refers to the administrative rules and regulations for the Properties and procedures for administering the Association and the Properties, as adopted, amended and rescinded from time to time by resolution of the Board of Directors.

1.23 "Surface Water Management System" shall have the same meaning as set forth in the Master Declaration.

1.24 "Single Family Residence" means and refers to a Living Unit which is restricted to occupancy only by the owner or primary occupant and his family, guests and tenants as further provided herein.

1.25 "Bellezza and Avallone" means and refers to and shall be the name of the Properties.

1.26 "Tenant" or "Tenants" means and refers to one who leases or rents from an Owner and holds temporary possession of a Living Unit.

2. COVENANT TO BE BOUND.

2.1 All Owners of Parcels in Bellezza and Avallone, on behalf of themselves and their families, guests, and lessees, by acceptance of a deed to a Parcel, acknowledge that they are subject to and bound by this Declaration and the governing documents and that the Owner is automatically a member of and subject to assessment by the Association in accordance with the terms of this Declaration and the governing documents. Each Owner covenants and agrees to pay all assessments levied against such Owner's Parcel by the Association.

3. ASSOCIATION: MEMBERSHIP: VOTING RIGHTS. The Bellezza and Avallone Homeowners' Association, Inc., a Florida corporation not for profit, shall perform its functions pursuant to the following:

3.1 Articles of Incorporation. A copy of the Articles of Incorporation of the Association is attached as Exhibit "B".

3.2 Bylaws. The initial Bylaws of the Association shall be the Bylaws as attached as Exhibit "C".

3.3 Delegation of Management. The Association may contract for the management and maintenance of the Properties and authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, preparation of records, enforcement of

rules and maintenance, repair, replacement and maintenance responsibilities of the Association, with funds made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties provided in the Governing Documents.

3.4 Membership. Every person or entity who is a record Owner of a fee interest in any Parcel located upon the Properties, shall be a Member, except that if a Parcel is subject to an agreement for deed, the purchaser in possession shall be considered the Owner for purposes of determining voting and use rights.

A. Class A. Class A Members shall be all those Owners as defined in Section 1, with the exception of the Class B Member. Class A membership shall become effective upon the occurrence of the last to occur of the following:

(1) Recording in the Public Records of a Deed or other instrument evidencing legal title to the unit in the Member.

(2) Approval of the Association as provided for elsewhere herein.

(3) Delivery to the Association of a copy of the recorded deed or other instrument evidencing title.

(4) Delivery to the Association, if required, of a written designation of a primary occupant.

B. Class B. The Class B Member shall be the Declarant or any successor to the Declarant's development rights.

Membership shall be appurtenant to, run with, and shall not be separated from the real property interest upon which membership is based.

3.5 Voting Interests. The Class A Members of the Association are entitled to one (1) vote for each Parcel owned by them. The total number of Class A votes shall not exceed the total number of Parcels subject to this Declaration. The vote of a Parcel is not divisible. The right to vote may be denied because of delinquent assessments. If a Parcel is owned by one natural person, his right to vote shall be established by the record title. If a Parcel is owned jointly by two or more natural persons who are not acting as trustees, that Parcel's vote may be cast by any one of the record Owners. If two or more Owners of a Parcel do not agree among themselves how their one vote shall be cast, that vote shall not be counted for any purpose. If the Owner of a lot is not a natural person or is a trustee, the vote of that Parcel shall be cast by any officer, director, partner or trustee, as the case may be. Prior to transition (as referenced in Section 15 of this Declaration), the Class B Member shall be entitled to a number of votes equal to the total number of Parcels owned by the Class A members plus one vote. After transition, the Class B Member shall be entitled to one (1) vote for each Parcel owned.

3.6 Approval or Disapproval of Matters. Whenever the decision or approval of the Owner of a Parcel is required upon any matter, whether or not the subject of an Association meeting, such decision or approval may be expressed by any person who could cast the vote of such Parcel if present in person at an Association meeting, unless the joinder of all record Owners is specifically required.

3.7 Change of Membership. Following written approval of the Association, as elsewhere required herein, a change of membership in the Association shall be established by the new owners membership becoming effective as provided above; and the membership of the prior Owner shall thereby be automatically terminated.

3.8 Termination of Membership. The termination of membership in the Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with the Association during the period of his membership, nor does it impair any rights or remedies which the Association may have against any former Owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

3.9 Association As Owner of Parcels. The Association has the power to purchase Parcels and Living Units, and to acquire and hold, lease, mortgage, and convey them, by act of a majority of the Board of Directors.

3.10 Membership Roster. The Association shall maintain a current roster of names and mailing addresses of Owners and Primary Occupants. A copy of the up to date roster shall be available to any Owner upon request.

3.11 Limitation on Liability. Notwithstanding any duty of the Association for maintenance and repairs, the Association shall not be liable to Owners for property damage other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or Owners or other persons.

3.12 Board of Directors. Except as otherwise provided by law or by the Governing Documents, the Association shall act through its Board of Directors and its officers, and no vote of the Members shall be required. The Officers and Directors of the Association have a fiduciary relationship to the members. An Owner does not have the authority to act for the Association by virtue of being an owner.

3.13 Powers and Duties. The powers and duties of the Association include those set forth in the Governing Documents.

3.14 Master Association. In matters pertaining to the Master Association and as more fully provided in the Master Declaration, the Board shall comply with the terms of the Master Declaration and the By-Laws of the Master Association regarding the voting procedures at all member meetings of the Master Association and for voting on behalf of the Association the number of votes as provided in the said Master Declaration.

4. COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS.

4.1 Creation of Lien and Personal Obligation for Assessments. Subject to the limitations on assessment liability set forth in Sections 4.2 and 4.3, the Developer, for each Parcel within the Neighborhood, hereby covenants, and each subsequent Owner of any Parcel (including any purchaser at a judicial sale), by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

A. the Parcel's pro rata share of annual assessments based on the annual budget adopted by the Association;

B. the Parcel's pro rata share of special assessments for Association expenditures not provided for by annual assessments;

C. any charges against less than all of the Parcels specifically authorized in this Declaration or the Association Bylaws; and

D. a one time capital contribution paid by the initial buyer of an improved Parcel to the Association at closing. The amount of the capital contribution shall be equal to one month's association dues and shall be due on or before the date of closing. Each Parcel shall be charged no more than one capital contribution.

Assessments shall be established and collected as provided herein and in the Bylaws. The annual and special assessments and charges, together with interest, costs, and reasonable attorney's fees shall bind such property in the hands of the Owner, his heirs, devisees, personal representatives, successors and assigns. In any conveyance, voluntary or otherwise, the transferee shall be jointly and severally liable with the transferor for all unpaid assessments coming due prior to the time of such conveyance, without prejudice to the rights of the transferee to recover from the transferor the amounts paid by the transferee. Except as provided elsewhere in this Declaration as to the Developer and Institutional Mortgagees, no Owner may be excused from the payment of assessments unless all Owners are similarly excused.

4.2 Share of Assessments. Except as otherwise provided as to the Developer and certain mortgagees, each Parcel (and the Owner thereof) whether it contains a Living Unit or not shall be liable for its pro rata share of all annual and special assessments, such pro rata share being a fraction of the whole, the numerator being "one" and the denominator being the total number of Units within the Properties as to which assessments have commenced. Any Common Areas and any property dedicated to and accepted by any governmental authority or public utility shall be exempt from payment of assessments.

4.3 Developer's Guarantee of Assessments and Share for Parcels Owned By It. Developer guarantees that from the date of recording of the first deed to a Parcel, that assessments against each Parcel by the Association shall not exceed \$_____ per month. This guarantee of assessments shall end on the first year anniversary date of recording of said first deed unless renewed by the Developer. Developer reserves the right to renew the guarantee period for two (2) successive periods of one (1) year each, on such terms as established by Developer. However, in no event will the guarantee period extend beyond transition to non-Developer control of the Board of Directors of the Association. During the guarantee period, the Developer shall be excused from the payment of assessments for Parcels owned by it, and instead shall pay that portion of all Association expenses actually incurred which exceeds the amounts assessed against other Parcel Owners. Such difference, herein called the "deficiency", shall not include any assessments or charges levied by the Master Association. Following transition of control of the Board of Directors, the Developer shall pay assessments as described in Section 4.2 hereof.

4.4 Establishment of Liens. Any and all assessments levied by the Association in accordance with the provisions of this Declaration or any of the Governing Documents, together with interest at the highest rate allowed by law, and costs of collection (including, but not limited

to reasonable attorney's fees) are hereby declared to be a charge and continuing lien upon the Parcel and Living Unit against which each such assessment or charge is made, and shall also be the personal obligation of the Owner of each Parcel and Living Unit assessed. This lien is superior to any Homestead rights the Owner may acquire. No Owner may exempt himself from personal liability for assessments, or release the Unit owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Association's responsibilities or services, or by abandonment of his Unit; the lien shall be perfected from and after the recording in the Public Records of the County of a Claim of Lien by the Association, setting forth the description of the homeowners parcel, the name of the record owner, the name and address of the Association, the amount and due date of each unpaid assessment as of the date the Claim of Lien is recorded, and the effectiveness of the lien shall relate back to the date of recording this Declaration. A Claim of Lien shall secure payment of all assessments due at the time of recording (including interest, costs and attorney's fees as provided above), as well as all assessments, interest, costs and attorney's fees coming due subsequently, until the Claim is satisfied or a final judgment of foreclosure obtained. Upon full payment of all sums secured by that Claim of Lien, the party making payment is entitled to a satisfaction.

4.5 Priority of Liens. The Association's lien shall be subordinate and inferior to the lien of any recorded Institutional Mortgage, unless the Association's Claim of Lien was recorded prior to the Institutional Mortgage, but shall be superior to, and take priority over, any other mortgage or lien regardless of when recorded. Any lease of a Living Unit shall be subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed. 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 any assessment coming due after foreclosure or conveyance in lieu of foreclosure. Any unpaid assessment which cannot be collected as a lien against any Parcel by reason of the provisions of this Section, shall be treated as a special assessment divided equally among, payable by and assessed against all Parcels, including the Parcel as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

4.6 Collection of Assessments. If any Owner fails to pay any Assessment, or installment thereof, within ten (10) days after the due date, the Association shall have any or all of the following remedies, to the extent permitted by law, which remedies are cumulative and are not in lieu of, but are in addition to, all other remedies available to the Association:

(A) To charge interest on such assessment or charge, from the date it becomes due until paid at the highest rate allowed by law, as well as to impose a late payment penalty of up to Twenty-five Dollars (\$25.00) per delinquent installment. This penalty shall not be considered a fine as provided for in Section 11.3, and the procedural requirements for levying fines set forth therein shall not apply.

(B) To deny Association approval of any proposed sale or transfer of the Owner's Parcel and Living Unit.

(C) To file an action in equity to foreclose its lien. The lien may be foreclosed by an action in the name of the Association in the same manner as that provided pursuant to Florida law for the foreclosure of liens on condominium units for unpaid condominium assessments.

(D) To bring an action at law for a money judgment against the Owner without waiving any lien foreclosure rights of the Association.

(E) To accelerate the due date of the entire unpaid balance of the Parcel's assessments for the current fiscal year. The Association's Claim of Lien shall secure payment of the entire accelerated obligation. The right to accelerate shall be exercised by sending written notice to the Owner's last known address, and shall be deemed given upon mailing of the notice. The notice may be given as part of the notice of intent to foreclose a lien or separately.

The Association shall collect all Assessments and other sums due the Master Association if required of it by the Master Association. The Association shall remit the assessments to the Master Association pursuant to such procedures as may be adopted by the Master Association. If required by the Master Association, Assessments due the Master Association shall be a common expense of the Association.

4.7 Certificate. The Association shall, within fifteen (15) days of receipt of a written request for same, furnish to any Owner liable for assessments a certificate in writing signed by an officer of the Association, setting forth whether said assessments and any other sums due the Association have been paid. Such certificate may be relied upon by all interested persons except the Owner.

5. ARCHITECTURAL AND AESTHETIC CONTROL AND TIMEFRAME FOR CONSTRUCTION.

5.1 Necessity of Architectural Review and Approval. No improvement, addition or deletion of structure of any kind, including without limitation, any building, fence, wall, screen enclosure, awning, drain or other improvement shall be commenced, erected, placed or maintained upon any Lot, nor shall any addition, change, alteration, repair or replacement to the exterior appearance of any portion of the Living Unit be made, unless and until the plans, specifications and location of the same shall have been submitted to, and approved in writing by the "Architectural Design Control Committee" pursuant to the procedures established by the Master Declaration so long as the "Architectural Design Control Committee" elects to exercise this right. If the "Architectural Design Control Committee" no longer exercises this right, the Association shall exercise these functions as more fully provided in the guidelines set forth below. All plans and specifications shall be evaluated as to harmony of external design and location in relation to surrounding structures and topography.

5.2 Architectural Review. At such time as the "Architectural Design Control Committee" declines or fails to exercise architectural review rights, the architectural review and control functions of the Association shall be administered and performed by the "Architectural Reviewer", as defined herein. Until 100% of the property described in Exhibit "A" has been developed and conveyed to Owners other than Developer, the Developer shall be the Architectural Reviewer and shall have the exclusive right to exercise architectural review under this Section. Developer may delegate its reserved rights hereunder to any entity, including the Board of Directors or an Architectural Review Committee appointed by the Board of Directors, in which case the delegatee shall be deemed the Architectural Reviewer.

5.3 Powers and Duties of Architectural Reviewer. The Architectural Reviewer shall have the following powers and duties:

(A) To enact modifications and/or amendments to the Architectural Planning Criteria. Any modification or amendment to the Architectural Planning Criteria shall be consistent with the provisions of this Declaration. As long as Developer owns at least one

Parcel or other property in the Neighborhood, the Architectural Reviewer shall not alter the Architectural Planning Criteria, without Developer's prior written consent, which consent may be denied in Developer's discretion. Notice of any modification or amendment to the Architectural Planning Criteria, including a verbatim copy of such change or modification, shall be delivered to each member of the Association; provided that the delivery of a copy of the modification or amendment to the Architectural Planning Criteria shall not constitute a condition precedent to the effectiveness or validity of such change or modification.

(B) To require submission of one (1) complete set of all plans and specifications for any improvement or structure of any kind, including without limitation, any building, fence, wall, sign, site paving, grading, parking and building additions, alteration, screen enclosure, sewer, drain, disposal system, decorative building, landscaping, landscape device or object or other improvement, the construction or placement of which is proposed upon any Parcel or Property in the Neighborhood, together with a copy of any required governmental permits. The Architectural Reviewer may also require submission of samples of building materials and colors proposed for use on any Parcel or the Property and may require such additional information as reasonably may be necessary for the Architectural Reviewer to completely evaluate the proposed structure or improvement in accordance with this Declaration and the Architectural Planning Criteria. Reviews shall be coordinated with required governmental approvals. The Architectural Reviewer shall have thirty (30) days to respond once a complete set of plans and specifications have been submitted. Failure to respond within said thirty (30) days shall be deemed an approval.

(C) To approve or disapprove any improvement or structure of any kind, including without limitation, any building, fence, wall, sign, site paving, grading, pools, parking and building additions, alterations, screen enclosure, sewer, drain, disposal system, decorative building landscaping, landscape device or object, or other improvement or change or modification thereto, the construction, erection, performance or placement of which is proposed upon any Parcel or the Property in the Neighborhood and to approve or disapprove any exterior additions, changes, modifications or alterations (including, but not limited to, changes in exterior colors, finishes and materials) therein or thereon. All decisions of the Architectural Reviewer shall be in writing and may, but need not be made by a certificate in recordable form.

(D) To approve or disapprove any change, modification or alteration to any improvement or structure as hereinabove described, and the plans and specifications if any upon which such change modification or alteration is based, prior to commencement of construction of such change, modification or alteration. If any improvement or structure as aforesaid shall be changed, modified or altered without prior approval of the Architectural Reviewer of such change, modification or alteration, and the plans and specifications therefore, if any, then the Owner shall upon demand, cause the improvement or structure to be restored to comply with the plans and specifications, originally approved by the Architectural Reviewer and shall bear all costs and expenses of such restoration, including costs and reasonable attorney's fees of the Architectural Reviewer or the Association. The Architectural Reviewer shall be specifically empowered to grant variances from the covenants, conditions and restrictions as contained herein and as are deemed reasonable, required or necessary to meet the needs of the particular building site.

(E) To adopt a schedule of reasonable fees for processing requests for approval or proposed improvements. Such fees, if any, shall be payable to the Association, in cash, at the time that plans and specifications are submitted to the Architectural Reviewer. In the event such fees, as well as any other costs or expenses of the Architectural Reviewer pursuant to

any other provisions of this Article are not paid by the Owner, they shall become a lien on the Owner's Property.

(F) To monitor construction to verify compliance with the provisions hereof and any approvals and conditions of the Architectural Reviewer.

5.4 Garages. No garages shall be converted to residential use or use other than as originally designed with the exception of conversion of a garage by the Developer for use as a temporary sales office.

5.5 Developer Construction. The provisions of this Section 5 shall not apply to Developer. Developer reserves the right to alter the plan of development and architectural style of the Properties and Living Units as it deems desirable in its sole discretion.

5.6 No Waiver of Future Approvals. Each Owner acknowledges that the persons reviewing applications under this Section 5 may change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Planning Criteria, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed work until the work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Architectural Reviewer may refuse to approve similar proposals in the future. Approval of application or plans for any work done or proposed, or in connection with any other matters requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

5.7 Variances. The Architectural Reviewer may authorize variances from compliance with any of its Architectural Planning Criteria and procedures when circumstances such as topography, natural obstructions, hardship or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Architectural Review Board from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

5.8 Limitation of Liability. The provisions of this Section 5 are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Properties but shall not create any duty to any person. Review and approval of any application pursuant to this Section 5 is made on the basis of aesthetic considerations, and the review and approval process is not intended to ensure compliance with building codes and other governmental requirements, nor as a representation as to the desirability, suitability or quality of any construction material, method or design. Neither the Master Association, the Developer, the Association, the Architectural Reviewer, the Board, nor any member of the foregoing shall be held liable for soil conditions, drainage or other site work, nor for any defects in plans revised or approved hereunder, or for any injury, damages, nor loss arising out of the manner or quality of approved construction on or modifications to any Parcel.

6. PROPERTY RIGHTS: EASEMENTS.

6.1 Easements.

A. The Developer (during any period in which the Developer has any ownership interest in the Properties) shall have the right to grant such electric, telephone, gas, water, sewer, irrigation, drainage, cable television or other easements, and to relocate any existing easement in any portion of the Properties and to grant access easements and to relocate any existing access easements in any portion of the Properties as the Developer shall deem necessary or desirable, for the proper construction of the Properties, operation and maintenance of the Properties, or any portion thereof, or for the general health or welfare of the Owners or for the purpose of carrying out any provisions of this Declaration. Such easements or the relocation of existing easements may not prevent or unreasonably interfere with the use of the Parcels and Living Units. Each Living Unit and Parcel shall be subject to an easement in favor of all other portions of the Properties for the location of utilities and for surface water drainage, for lateral and subjacent support, and for the use, maintenance, repair, and replacement thereof. An easement for repair and maintenance of the improvements shall exist over and across adjoining Parcels. The Association is granted a blanket easement over the Parcels for repair and maintenance and for carrying out its responsibilities pursuant to this Declaration. Each parcel shall be subject to an access easement in favor of the adjoining Owner(s) and their contractors and agents for purposes of using the side yard area in order to bring materials and construction equipment to the rear of the Parcel for construction of pools or other structures. The adjoining Owner shall restore the Parcel to its previous condition following completion of such construction. Following transition from Developer control, the Association shall have the authority to grant easements on the foregoing terms, subject to the Developer's prior written consent as long as Developer owns a Parcel or any property located in the Neighborhood.

6.2 Partition: Separation of Interest. Nothing herein shall be construed to prevent judicial partition of any Parcel and Living Unit owned on cotenancy. The ownership of any Parcel and the ownership of the Living Unit constructed thereon may not be separated or separately conveyed; nor may any person who does not have an ownership interest in at least one Parcel and Living Unit hold membership in the Association, except for Developer.

6.3 Construction; Maintenance. The Developer (including its agents, designees, contractors, successors and assigns) shall have the right, in its and their sole discretion, to enter the Neighborhood and take all other action necessary or convenient for the purpose of completing the construction thereof, of any improvements or Living Units. As long as Developer is liable under the terms of any warranty in favor of an Owner, Developer and its agents, designees, contractors, and their successors and assigns shall have an easement of access to the Neighborhood and any Parcels and Living Units in order to make repairs or replacements, and take all other action necessary or convenient for the purpose of fulfilling its obligations.

6.4 Easements to Master Association. The Master Association shall be granted those applicable access rights, easement rights and other such rights as are set forth in the Master Declaration.

6.5 Golf Course Easements. There are hereby reserved non-exclusive, non-specific, perpetual easements for the benefit of the Golf Club, the Golf Club Owner and the users of the Golf Course Facilities over Lots, common areas of the Master Association, Neighborhood Common Areas and any other portions of the Total Property which are or may be

adjacent to any golf Course Area to permit every reasonable act necessary and appropriate for playing golf. These easements include, without limitation, the flight of golf balls over and landing of golf balls on the adjacent properties, the necessary and reasonable use of golf carts and maintenance equipment, the usual common noises associated with the playing of golf and maintenance of golf course facilities and the entrance, at reasonable times and in a reasonable manner, upon the adjacent properties to retrieve errant golf balls, provided, however, if any such adjacent property is fenced or walled, the golfer will seek and receive the permission of the owner of such property before entry. Declarant, builders, the Master Association and the Association shall not be liable or responsible for disputes between an Owner and any person using the Golf Course Facilities. Each Owner, by acceptance of delivery of a deed to a Living Unit, assumes all risks associated with the Golf Club Facilities (irrespective of whether the Owner uses the Golf Club Facilities), such as the risk of property damage or personal injury, errant golf balls, loss of view, noise pollution, or other visual or audible offenses, or any other alleged wrong, and shall indemnify and hold harmless the Declarant, the Master Association, any builders, and the Association from any liability, claims or expenses, including attorneys' fees, arising or resulting from any errant golf balls or damages caused thereby to persons or property. No amendment to this Paragraph may be made without the written approval of the Golf Club Owner.

7. MAINTENANCE OF LOTS AND LIVING UNITS.

7.1 Association Maintenance. All maintenance, repair and replacement which is the responsibility of the Association shall be a common expense, unless the Association undertakes maintenance, repair or replacement of those portions of a Parcel for which an Owner is responsible, due to an Owner's failure to undertake the maintenance, repair or replacement. The Association is responsible for the protection, maintenance, repair and replacement of the following portions of the Properties, and shall have an Easement over the Lots and the irrevocable right of access to the Lots and the Units from time to time during reasonable hours as may be necessary in connection with the Association's maintenance obligations. The Association shall maintain all areas for which the duty to maintain has been delegated to and accepted by the Association.

A. Landscaping. The Association shall be responsible for the maintenance and care of all mowing of lawns throughout the Properties. The Association's responsibility shall include mowing, trimming, edging, fertilizing, weed control and insect and disease control as determined by the Association in its sole discretion. Notwithstanding the foregoing, the following shall apply with respect to the landscaping on the Lots:

(i) No owner shall have the right to require the Association to perform lawn mowing maintenance, including but not limited to fertilizing, weed control, and related insect and disease control, at a higher level than determined by the Association in its sole discretion. If any owner desires the lawn mowing, fertilization or pest control on his Lot to be maintained at a higher level than determined by the Association, the Owner may do so at the Owner's expense.

(ii) If any Owner desires to install additional landscaping on the Owner's Lot, such landscaping must receive prior approval pursuant to Section 5 of this Declaration. If any Owner installs approved landscaping on the Owner's Lot, the Owner shall be responsible to maintain such special landscaping.

B. Subdivision Wells and Water Sprinkler System. All Owners shall be required to install irrigation lines and sprinkler heads on their Lot which shall be connected to the Association's irrigation facilities. The Association shall install the necessary pumps and irrigation facilities in an area approved by the Master Association. The Association shall be responsible for the maintenance, repair and replacement of all irrigation facilities on any easements, common areas or Lots. The Association shall determine, from time to time, when the irrigation shall be operated for each of the Lots and the common areas.

7.2 Owner Maintenance.

A. The Owner of each Lot must keep and maintain his Unit and the improvements thereon, including equipment and appurtenances such as, but not limited to, fences and driveways within the Lot to the roadway adjacent to such Lot, in good order, condition and repair, and must perform promptly all maintenance and repair work within his Unit which, if omitted, would adversely affect the community, the other Owners or the Association and its Members. The Owner of each Lot shall be responsible for any damages caused by a failure to so maintain such Lot and Unit. The Owners' responsibility for maintenance, repair and replacement shall include, but not be limited to, all of the physical structure constructed in, upon or below the Lot (except for irrigation lines and sprinkler heads) and physical items attached or connected to such structure that run beyond the boundary line of the Lot which exclusively service or benefit the Lot and Unit. The painting and maintenance of the exterior surface of the walls, exterior doors, garage doors and roof of the physical structure of the Unit, as well as all windows, patio areas, pools, screenings, awnings and other portions of the exterior of the Unit shall be performed by the Owner, and the unfinished exterior surface of such walls, doors and roof shall at all times be maintained in a First-class and serviceable condition and repair and in a neat and attractive manner with no damage or other defect therein or thereon by the Owner. The Owner of a Lot further agrees to pay for all utilities, such as telephone, electric, etc., that may be separately billed or charged to each Unit. The Owner or Owners of each Lot shall be responsible for insect and pest control within the Unit. Whenever the maintenance, repair or replacement of any item which an Owner is obligated to maintain, repair or replace at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement, except that the Owner shall be, in said instance, required to pay such portion of the costs of such maintenance, repair or replacement as shall, by reason of the applicability of any deductibility provision of such insurance or otherwise, reduce the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

B. If a Unit is damaged by fire or other casualty, its Owner shall properly restore it to at least as good a condition as it was before the casualty occurred. Any such work shall be in accordance with the original plans and specifications of the Units unless otherwise authorized by the Board and shall be subject to approval by the Committee.

7.3 Enforcement of Maintenance. In the event that an Owner fails or refuses to comply with these provisions, after fourteen (14) days notice and demand from the Association and the Owner's failure to comply, the Association shall have the authority (but not the obligation) to take whatever action is reasonably necessary in its judgment to bring the Parcel and Living Unit into conformity and the expenses of doing so shall be an obligation of the Owner collectable as a special assessment against that Parcel. The Association is granted an easement upon the Parcel and its improvements for these purposes. In the alternative, the

Association may institute legal proceedings to compel the Owner to observe his obligations set forth in the Governing Documents.

7.4 Negligence: Damage Caused by Condition in Living Unit. The owner of each Living Unit shall be liable for the expenses of any maintenance, repair or replacement of Common Areas, other Living Units, or personal property made necessary by his act or negligence, or by that of any member of his family or his guests, employees, agents, or tenants. Each Owner has a duty to maintain his Living Unit and personal property therein, in such a manner as to prevent foreseeable and reasonably preventable damage to other Living Units, the Common Areas or the property of other owners and residents. If any condition, defect or malfunction, resulting from the Owner's failure to perform this duty causes damage to other Living Units or property within other Living Units, the owner of the offending Living Unit shall be liable to the person or entity responsible for repairing the damaged property for all costs of repair or replacement not paid by insurance. The Association may, but is not obligated to, repair the damage and hold the responsible party liable for all costs, secured by a lien against the applicable Parcel.

7.5 Developer's Lien. In the event the Association fails to maintain, replace or repair those portions of the Properties as herein provided, upon thirty (30) days notice to the Association, the Developer or its designee shall have the right, without being obligated to do so, to enter upon the Neighborhood and cause said maintenance, replacement, or repair to be made, and in such event, the Developer shall have a lien upon the Neighborhood, including all Parcels therein, for the costs thereof, including, without limitation, interest, court costs and reasonable attorneys' fees and appellate attorneys' fees incurred by the Developer in collecting the sums expended by it. The aforesaid lien may be foreclosed in the same manner as mortgages or statutory liens are foreclosed in Florida. In the event of an emergency situation, threatening the health and welfare of the residents, the Developer may immediately enter upon the Neighborhood and cause such maintenance replacements or repairs to be made forthwith and without the requirement of any prior notice thereof, and the Developer shall have an enforceable lien upon the Neighborhood as aforesaid.

7.6 Standard of Performance. Maintenance, as such term is used in this Declaration, shall mean maintaining, improving, repairing, replacing, insuring, and taking any and all steps to keep the real property legally described on Exhibit "A", neat, clean and attractive, including, without limitation, installing, repairing and replacing improvements, fixtures and landscaping, as well as such other duties as may be necessary or appropriate to satisfy the Community-Wide Standard.

8. INSURANCE. The Association shall obtain and maintain adequate insurance (with provisions for deductibles) as follows:

A. Association's Public Liability. The Association shall at all times maintain a policy of comprehensive liability insurance insuring the Association and its agents, the Board, and the Parcel Owners against liability in connection with the Common Area in such amounts as the Board may deem desirable, which policy shall include, if obtainable, a cross-liability endorsement. The premiums for such insurance shall be a common expense.

B. Worker's Compensation. The Association shall at all times maintain worker's compensation insurance covering all employees or third parties employed by the Association meeting statutory limits in compliance with applicable state and/or federal laws.

9. **USE RESTRICTIONS.** The use of the Lots shall be in accordance with all restrictions imposed upon the Properties by the Master Association as provided in the Master Declaration. In addition to those restrictions provided in the Master Declaration, the use of the Lots shall be in accordance with the following restrictions:

9.1 **Garages.** All garage doors shall remain closed at all times that such garage or garage door is not in use.

10. **DEVELOPER'S AND ASSOCIATION'S EXCULPATION.** The Association and the Developer may grant, withhold or deny its permission or approval in any instance where its permission or approval is permitted or required without incurring liability of any nature to the Owners or any other person for any reason whatsoever, any permission or approval so granted shall be binding upon all persons.

11. **ENFORCEMENT OF COVENANTS AND ABATEMENT OF VIOLATIONS.** Every Owner and the Owner's family members, tenants, guests and invitees shall at all times comply with all the covenants, conditions and restrictions of the Governing Documents. All violations of the Governing Documents shall be reported immediately to a member of the Board of Directors. Before undertaking any remedial, disciplinary or enforcement action against a person alleged to be in violation, the Association shall give the alleged violator reasonable written notice of the alleged violation, except in emergencies. Disagreements concerning violations, including, without limitation, disagreements regarding the proper interpretation and effect of the Governing Documents, shall be presented to and determined by the Board of Directors of the Association, whose interpretation of the Governing Documents and/or whose remedial action shall control. If any person, firm or entity subject to the Governing Documents fails to abide by them, as they are interpreted by the Board of Directors, the Association shall have the ability to take any action to compel compliance as set forth below.

11.1 **Legal Action.** Judicial enforcement of the 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, or against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. If such action is instituted, the Association shall, in addition, be entitled to recover its costs and attorney's fees incurred in enforcing the Governing Documents.

11.2 **Entry by Declarant or Association.** Violation of any conditions or restrictions, or breach of any covenant, herein contained or in any of the Governing Documents, shall also give the Declarant, its successors and assigns, and/or the Association and its authorized agent or representative, in addition to all other remedies, the right to enter upon the land of a Living Unit where such violation or breach exists and in the event of an emergency, summarily abate and remove, at the expense of the Owner of the land, any construction or other violation that may be or exist thereon. The Declarant, its successors and assigns and/or the Association and its authorized agents shall not thereby become liable in any manner for trespass, abatement or removal.

11.3 **Fines.** The Association may impose a fine or fines against an Owner for failure of the Owner, his family, Guests, invitees, Tenants, or agents of any of the foregoing, to comply with any covenant, restriction, rule, or regulation contained herein or promulgated pursuant to the Governing Documents.

12. LEASING, CONVEYANCE, DISPOSITION. The lease, and transfer of ownership of a Parcel by an Owner shall be subject to any restrictions contained in the Master Declaration.

13. DEVELOPER'S RIGHTS AND DUTIES: So long as the Developer holds title to any Parcels or other property in the Neighborhood, the following shall apply, notwithstanding any other provisions to the contrary.

13.1 Developer's Use. Until the Developer has completed all of the contemplated improvements and has sold all of the Parcels in the Neighborhood, neither the Owners nor the Association nor their use of the Parcels or Living Units shall be allowed to unreasonably interfere with the completion of the contemplated improvements or sales of Parcels. The Developer may make any use of unsold Parcels and Living Units as may reasonably be expected to facilitate completion and sales, including, but not limited to, maintenance of sales offices, display of signs, leasing Living Units, and showing the Properties to prospective purchasers. Developer may utilize any model homes, sales offices, trailers, etc., for use in marketing.

Notwithstanding anything to the contrary contained in this Declaration and in recognition of the fact that Declarant will have a continuing and substantial interest in the development and administration of the Neighborhood and any additional development projects conducted by Developer in Palmira ("Other Property"), the Declarant hereby reserves for itself and its successors and assigns, and the Association recognizes, agrees and acknowledges that the Declarant and its successors and assigns shall have the right to, the use, in conjunction with and as part of its program of selling, leasing, construction and development within the Neighborhood and the Other Property without any cost to Declarant for such rights and privileges, of all portions of the Properties, the title to which has not been conveyed by Declarant. This right of use shall include, but is not limited to, the right to establish and maintain within any improvements erected upon the Properties signage and a sales office for the Declarant's use in connection with the offering of Parcels and/or Living Units and lots or units to be located on the Other Property for sale or rent to the public, as well as the holding of sales and marketing meetings, sales promotions and related activities. For purposes of this Paragraph 13.1 the term "Declarant" shall include any lender if such lender or its successors or assigns acquires title to any portion of the Properties as the result of the foreclosure of any mortgage encumbering the Properties and privileges of Declarant as herein set forth in this Paragraph 13.1 are in addition to and in no way limit any other rights or privileges of Declarant under this Declaration or any of the other portion of the Properties nor the Other Property or upon such earlier date as Declarant shall notify the Association in writing of Declarant's voluntary written election to relinquish the aforesaid rights and privileges of use.

13.2 Assignment of Development Rights. All or any portion of the rights, privileges, powers and duties of the Developer set forth in the Governing Documents may be assigned by the Developer to any person or entity, without the consent of any other Owner or any holder of a mortgage secured by any Parcel. In the event of such assignment, the assignee shall assume such rights, powers and duties, and the Developer shall be relieved of all further liability or obligation to the extent of the assignment. In the event of the foreclosure of any mortgage owed by the Developer, or deed in lieu of such foreclosure, the person first acquiring title to such interest by reason of such foreclosure, or deed in lieu of foreclosure, shall succeed to all rights, powers, privileges and immunities of the Developer in and to such interest and the Developer shall be relieved of any further liability or obligation to the extent of such transfer of title.

13.3 Disputes as to Use. In the event there is any dispute as to whether the use of the Properties or any portion thereof complies with the covenants and restrictions contained in this Declaration or any applicable Supplemental Declaration, such dispute shall be referred to the Board, and a determination rendered by the Board with respect to such dispute shall be final and binding on all parties concerned therewith, provided, however, any use by Declarant of the Properties or any part thereof in accordance with Paragraph 13.1 shall be deemed a use which complies with this Declaration and all applicable Supplemental Declarations and shall not be subject to a determination to the contrary by the Board.

13.4 NO REPRESENTATIONS OR WARRANTIES. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY DECLARANT OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH ANY PORTION OF THE PROPERTIES, ITS PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAWS OR FITNESS FOR INTENDED USE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF, EXCEPT AS SPECIFICALLY AND EXPRESSLY SET FORTH IN THESE PROTECTIVE COVENANTS.

14. DURATION OF COVENANTS: AMENDMENT OF DECLARATION:

14.1 Duration of Covenants. The covenants, conditions and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association, the Master Association, the Developer and any Owner, their respective legal representatives, heirs, successors and assigns, for an initial period to expire on the thirtieth (30th) anniversary of the date of recordation of the Declaration (as amended to that date by the Developer or the membership as provided elsewhere herein). Upon the expiration of the initial period, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited, with this Declaration being renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial period, or during the last year of any subsequent ten (10) year renewal period, ninety percent (90%) of the entire membership, at a duly held meeting of members of the Association, vote in favor of terminating this Declaration at the end of its then current term. It shall be required that written notice of any meeting at which such proposal will be considered, shall be given at least forty-five (45) days in advance of said meeting. If the members vote to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination so adopted, the date of the meeting of the Association, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Public Records of Lee County, Florida, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

14.2 Proposal. Amendments to this Declaration may be proposed at any time by the Board of Directors or by written petition signed by one-fourth (1/4) of the voting interests. If by petition, the proposed amendments must be submitted to a vote of the Owners not later than the next annual meeting.

14.3 Vote Required. Except as otherwise provided by law, or by specific provision of the Governing Documents, this Declaration may be amended if the proposed amendment is approved by at least two-thirds (2/3) of the voting interests present and voting at any annual or

special meeting called for the purpose, provided that the text of each proposed amendment has been given to the Members with notice of the meeting. No amendment shall change any Parcel's share of liability for assessments or any Owner's voting rights, unless the Owner consents to the amendment.

14.4 Certificate; Recording. A copy of each amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall identify the Book and Page of the Public Records where the Declaration is recorded, and shall be executed by officers of the Association with the formalities of a deed. The amendment shall be effective when the certificate is recorded in the Public Records of Lee County, Florida.

14.5 Developer's Rights. Until such time as the Developer turns over control of the Association to Owners other than the Developer, no amendment adopted by the membership shall be effective without the prior written consent and joinder of Developer, which consent may be denied in Developer's discretion. In addition, no amendment shall be effective which alters the rights and privileges of Developer, an Institutional Mortgagee, or the South Florida Water Management District, unless such party shall first provide its written consent and joinder.

14.6 Developer Amendment of Documents. In addition to any other right of amendment or modification provided for in this Declaration, the Developer, or any entity which succeeds to its position as the Developer of the Neighborhood may, in its sole discretion, by an instrument filed of record prior to the date of transition of Developer control of the Association, unilaterally modify, enlarge, amend, waive or add to the provisions of this Declaration or any of its recorded exhibits. The rights set forth in this paragraph shall expire when the Developer has turned over control of the Association to Owners other than the Developer. Any amendment made pursuant to this paragraph may be made without notice to the members or to any other entity.

15. TRANSITION FROM DEVELOPER CONTROL. Pursuant to Section 720.307, Florida Statutes (2003), the members other than the Developer are entitled to elect a majority of the Board of Directors three (3) months after ninety percent (90%) of all Parcels in Bellezza and Avallone that ultimately will be operated by the Association have been conveyed to members other than Developer. The Developer shall be entitled to elect at least one (1) member of the Board of Directors as long as Developer holds for sale in the ordinary course of business at least five percent (5%) of the Parcels. The Developer may turn over control of the Board of Directors prior to the Transition Meeting by causing all of its appointed Directors to resign, whereupon it shall be the affirmative obligation of members other than Developer to elect Directors and assume control of the Association provided that at least thirty (30) days notice has been sent to the members.

16. MASTER ASSOCIATION. It is acknowledged that the Real Property legally described on Exhibit "A" attached hereto is also subject to the Master Declaration and any further amendments thereto. It is expressly understood that the governing documents of the Master Association, including without limitation the Master Declaration, Articles of Incorporation and Bylaws of the Master Association, and any rules and regulations promulgated by the Master Association (the "Master Association Documents"), do not prohibit the Board from imposing restrictions upon the Real Property legally described in Exhibit "A" attached hereto so long as said restrictions are in addition to, or more restrictive than, such restrictions shall not be effective to permit that which is expressly prohibited by the restrictions in the Master Association Documents.

17. **OPTIONAL SERVICES.** The Association shall have the right, but not the obligation, to offer various optional services for the Owners, such as landscape maintenance, exterior painting, security, or any other services the Association desires to offer. In the event any Owner accepts such optional services, any monies the Owner owes to the Association for such services shall be deemed an assessment, and all of the provisions of this Declaration shall be applicable with respect to the payment and collection of such assessment.

18. **GENERAL PROVISIONS.**

18.1 **Waiver.** Any waiver by Developer of the breach of any provisions of this Declaration must be in writing and shall not operate or be construed as a waiver of any other provision or of any subsequent breach.

18.2 **Severability.** If any section, subsection sentence, clause, phrase or portion of this Declaration or any of its recorded exhibits is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions.

18.3 **Headings.** The headings of the Sections herein are for convenience only, and shall not affect the meaning or interpretation of the contents thereof.

18.4 **Notices.** Any notice required to be sent to any Owner other than Developer under the provisions of this Declaration or the Bylaws, shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing. The Owner bears the responsibility for notifying the Association of any change of address. Any notice sent to Developer shall be sent by certified or registered mail, return receipt requested to Harbourside Custom Homes, Inc., 8200 Health Center Boulevard, Suite 101, Bonita Springs, Florida 34135 or to any other address for which the Developer shall give the Association notice of such address change.

18.5 **Interpretation.** The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly unreasonable.

19. **GOLF CLUB.**

19.1 The Golf Club and its designees may add to, remove or otherwise modify the landscaping, trees and other features of the Golf Club Facilities, including changing the location, configuration, size and elevation of bunkers, fairways and greens and constructing fences, and neither the Golf Club, Developer, Master Association nor the Association shall have any liability to any Owner as a result of such modifications to the Golf Club Facilities;

OWNERSHIP OF A LOT OR DWELLING, OR ANY PORTION OF THE RESIDENTIAL PROPERTY OR MEMBERSHIP IN THE MASTER ASSOCIATION OR ANY NEIGHBORHOOD ASSOCIATION DOES NOT GIVE ANY VESTED RIGHT OR EASEMENT, PRESCRIPTIVE OR OTHERWISE, TO USE ANY GOLF CLUB FACILITIES OR TO ACQUIRE A MEMBERSHIP IN THE GOLF CLUB AND DOES NOT GRANT ANY OWNERSHIP INTEREST OR MEMBERSHIP IN THE GOLF CLUB OR THE GOLF CLUB FACILITIES.

OWNERSHIP OF A LOT OR DWELLING, OR ANY PORTION OF PALMIRA OR MEMBERSHIP IN THE MASTER ASSOCIATION OR NEIGHBORHOOD ASSOCIATION DOES

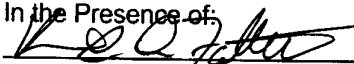
NOT GIVE ANY VESTED RIGHT OR EASEMENT, PRESCRIPTIVE OR OTHERWISE, TO USE THE RENAISSANCE CENTER CLUB FACILITIES (AS DEFINED IN THE MASTER DECLARATION) OR TO ACQUIRE A MEMBERSHIP IN THE RENAISSANCE CENTER CLUB AND DOES NOT GRANT ANY OWNERSHIP INTEREST OR MEMBERSHIP IN THE RENAISSANCE CENTER CLUB OR THE RENAISSANCE CENTER CLUB FACILITIES.

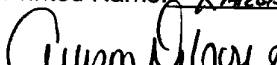
19.2 Privileges to use the Golf Club Facilities shall be subject to the terms and conditions of the membership documents for the Golf Club, as the same may be amended from time to time (the "Membership Plan Documents"). Acquisition of a membership in the Golf Club requires the payment of a membership purchase price called a membership contribution or membership deposit, and membership dues, fees and charges. These amounts shall be determined as set forth in the Membership Plan Documents for the Golf Club. Notwithstanding the fact that the Golf Club Facilities may be deemed open space or a recreation area for purposes of applicable zoning ordinances and regulations or as shown on any Plat, each Owner by acquisition of title to any portion of the Residential Property releases and discharges forever the Developer, the Master Association, the Association, the Golf Club and their respective partners, officers, directors employees, agents and affiliates, from (a) any claim that the Golf Club and the Golf Club Facilities are or must be owned and/or operated by the Master Association or the Owners; and/or (b) any claim that the Owners are entitled to use the Golf Club Facilities by virtue of their ownership of a Lot or Dwelling, or any other portion of the Property without acquiring a membership in the Golf Club, paying the applicable membership contribution or membership deposit, and dues, fees and charges established by the Golf Club from time to time, and complying with the terms and conditions of the Membership Plan Documents for the Golf Club.

19.3 The Golf Club may own one (1) or more lakes on Palmira and, notwithstanding the ownership of such lakes, the Golf Club may use any and all lakes in Palmira for the purpose of irrigating and maintaining the Golf Club Facilities with the result that the water level in such lakes may from time to time vary. Each Owner agrees not to commence any cause of action or other proceeding involving the Developer, Association or Golf Club based on the exercise of such right or otherwise interfere therewith. In the event there are insufficient water levels to provide the necessary irrigation needs of the Golf Club Facilities and all other areas of Palmira, subject to applicable governmental permits and requirements, the Golf Club Facilities shall have first priority of irrigation, followed by the Master Association Common Areas, Common Areas and individual Lots, if applicable.

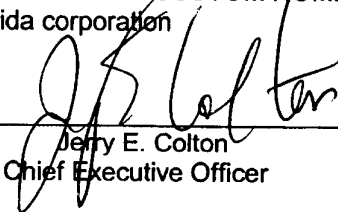
IN WITNESS WHEREOF, the Declarant does hereby execute this Declaration of Covenants, Conditions and Restrictions through its undersigned, duly authorized officer, this 2 day of December, 2004.

In the Presence of:


Printed Name: Karen L. Lafollette


Printed Name: Allison DiCroce

HARBOURSIDE CUSTOM HOMES, INC. a
Florida corporation

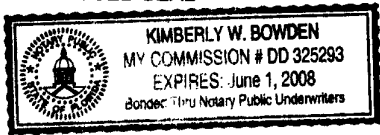
By: 
Jerry E. Colton
Its: Chief Executive Officer

(Notary Language on Next Page)

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 2nd day of December, 2004, by Jerry E. Colton, as Chief Executive Officer of Harbourside Custom Homes, Inc., a Florida corporation, who is personally known to me or who has produced _____ as identification.

NOTARY RUBBER STAMP SEAL
OR EMBOSSED SEAL



Kimberly W Bowden
Notary Public
Kimberly W Bowden
Printed Name
DD325293 6-1-08
Commission No. Expiration Date

EXHIBIT "A"

Lots 1 and 2, Block 11; and Lots 1 and 2, Block 12, of "PARKLANDS LEE", a subdivision according to the map or plat thereof recorded in Plat Book 79, Page 84, Public Records of Lee County, Florida.



I certify from the records of this office that BELLEZZA AND AVALLONE HOMEOWNERS' ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on November 24, 2004.

The document number of this corporation is N04000011000.

I further certify that said corporation has paid all fees due this office through December 31, 2004, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

I further certify that this is an electronically transmitted certificate authorized by section 15.16, Florida Statutes, and authenticated by the code, 704A00066757-112904-N04000011000-1/1, noted below.

Authentication Code: 704A00066757-112904-N04000011000-1/1

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Twenty-ninth day of November, 2004



Glenda E. Hood
Glenda E. Hood
Secretary of State

EXHIBIT "B"

State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of BELLEZZA AND AVALLONE HOMEOWNERS' ASSOCIATION, INC., a Florida corporation, filed on November 24, 2004, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H04000234140. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below

The document number of this corporation is N04000011000.

Authentication Code: 704A00066757-112904-N04000011000-1/1

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Twenty-ninth day of November, 2004



Glenda E. Hood
Glenda E. Hood
Secretary of State

ARTICLES OF INCORPORATION

OF

BELLEZZA AND AVALLONE HOMEOWNERS' ASSOCIATION, INC.

Pursuant to Section 617.02011, Florida Statutes, the undersigned hereby executes these Articles of Incorporation for the purpose of forming a Corporation under the Florida Not-for-Profit Business Corporate Acts.

ARTICLE I

NAME: The name of the corporation, herein called the "Association", is Bellezza and Avallone Homeowners' Association, Inc., and its address is 8200 Health Center Boulevard, Suite 101, Bonita Springs, Florida 34135.

ARTICLE II

DEFINITIONS: The definitions set forth in the Declaration of Covenants and the Florida Not-For-Profit Corporations Act, with particular reference to Section 720.301, F.S.,(2003), shall apply to terms used in these Articles.

ARTICLE III

PURPOSE AND POWERS: The purpose for which the Association is organized is to provide an entity pursuant to the Florida Not-for-Profit Corporations Act for the operation of Bellezza and Avallone(the "Community") located in Lee County, Florida. The Association is organized and shall exist on a non-stock basis as a corporation not for profit under the laws of the State of Florida, and no portion of any earnings of the Association shall be distributed or inure to the private benefit of any member, Director or officer. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not for profit and of a homeowners' association under the laws of the State of Florida, except as expressly limited or modified by these Articles, the Declaration of Covenants (the "Declaration"), Bylaws and the Rules and Regulations (these Articles, the Declaration, Bylaws and Rules and Regulations shall be collectively referred to herein as the "Governing Documents"); and it shall have all of the powers and duties reasonably necessary to operate the Community pursuant to the Governing Documents as they may hereafter be amended, including but not limited to the following:

- A. To make and collect assessments against members of the Association to defray the costs, expenses and losses of the Association, and to use the funds in the exercise of its powers and duties.
- B. To protect, maintain, repair, replace and operate Association property, and/or such other portions of the Community as set forth in the Declaration.
- C. To purchase insurance for the protection of the Association and its members.

D. To repair and reconstruct improvements after casualty, and to make further improvements of any Association property, and/or such other portions of the Community as set forth in the Declaration.

E. To make, amend and enforce reasonable rules and regulations as set forth in the Declaration.

F. To enforce the provisions of the laws of the State of Florida that are applicable to the Community, and the Governing Documents.

G. To contract for the management and maintenance of the Community and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by law or by the Declaration to be exercised by the Board of Directors or the membership of the Association.

H. To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Community.

I. To borrow money as necessary to perform its other functions hereunder.

J. To grant, modify or move any easement.

K. To sue and to be sued.

L. To own and convey property.

All funds and the title to all property acquired by the Association shall be held for the benefit of the members in accordance with the provisions of the Governing Documents.

ARTICLE IV

MEMBERSHIP:

A. The members of the Association shall be the record owners of a fee simple interest in one or more Parcels. Class A members of the Association are all owners other than Developer. The Class B member is the Developer as further provided in the Bylaws.

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

C. Except as otherwise provided in the Declaration and Bylaws with respect to the Class B Member, the owners of each Parcel, collectively, shall be entitled to one vote in Association matters. The manner of exercising voting rights shall be as set forth in the Bylaws.

ARTICLE V

TERM: The term of the Association shall be perpetual.

ARTICLE VI

BYLAWS: The Bylaws of the Association may be altered, amended, or rescinded in the manner provided therein.

ARTICLE VII

DIRECTORS AND OFFICERS:

A. The affairs of the Association shall be administered by a Board of Directors consisting of the number of Directors determined by the Bylaws, but not less than three (3) Directors, and in the absence of such determination shall consist of three (3) Directors.

B. Directors of the Association shall initially be appointed by and shall serve at the pleasure of the Developer, and following transition shall be elected by the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

C. The business of the Association shall be conducted by the officers designated in the Bylaws. The officers shall be elected each year by the Board of Directors at its first meeting after the annual meeting of the members of the Association, and they shall serve at the pleasure of the Board.

The initial Directors are as follows:

Jerry E. Colton
8200 Health Center Boulevard, Suite 101
Bonita Springs, Florida 34135

Frank R. Jenkins
8200 Health Center Boulevard, Suite 101
Bonita Springs, Florida 34135

Kerri A. Jenkins
8200 Health Center Boulevard, Suite 101
Bonita Springs, Florida 34135

The initial Officers are as follows:

Kerri A. Jenkins, President
Jerry E. Colton, Vice President
Frank R. Jenkins, Secretary

ARTICLE VIII

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

A. **Proposal.** Amendments to these Articles may be proposed by a majority of the Board or by a written petition to the Board, signed by at least fifty (50%) percent of the voting interests of the Association.

B. **Procedure.** Upon any amendment to these Articles being proposed by said Board or members, such proposed amendment shall be submitted to a vote of the members not later than the next annual meeting for which proper notice can be given.

C. **Vote Required.** Prior to transition of control of the Board of Directors from the Developer of the Community, amendments shall be adopted by the Board of Directors. Subsequent to transition of control of the Board of Directors, a proposed amendment shall be adopted if it is approved by at least two-thirds (2/3rds) of the voting interests in the Association who are present and voting, in person or by proxy, at any annual or special meeting called for the purpose. As long as Developer owns a Parcel an amendment to the Articles of Incorporation shall not be effective without the prior written consent of Developer, which consent may be denied in Developer's discretion, provided, further, that regardless of whether Developer owns a Parcel, no amendment shall be effective if it affects the Developer's rights or alters any provision made for the Developer's benefit.

D. **Effective Date.** An amendment shall become effective upon filing with the Secretary of State and recording a Certificate of Amendment in the Public Records of Lee County, Florida, with the formalities required for the execution of a deed.

ARTICLE IX

INDEMNIFICATION: To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director and every officer of the Association against all expenses and liabilities, including attorney fees, actually and reasonably incurred by or imposed on him in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he may be a party because of his being or having been a Director or officer of the Association. The foregoing right of indemnification shall not be available if a judgement or other final adjudication establishes that his actions or omissions to act were material to the cause adjudicated and involved:

A. Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgement in its favor.

B. A violation of criminal law, unless the Director or officer had no reasonable cause to believe his action was unlawful or had reasonable cause to believe his action was lawful.

C. A transaction from which the Director or officer derived an improper personal benefit.

In the event of a settlement, the right to indemnification shall not apply unless the Board of Directors approves such settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which a Director or officer may be entitled.

ARTICLE X

INCORPORATOR: The name and address of the Incorporator is as follows:

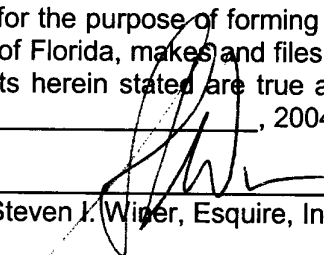
Steven I. Winer, Esquire
Roetzel & Andress, a Legal Professional Association
2320 First Street, Suite 1000
Fort Myers, Florida 33901

ARTICLE XI

REGISTERED OFFICE AND REGISTERED AGENT: The name and address of the Registered Agent and the address of the Registered Office is:

R&A Agents, Inc.
Attention: Steven I. Winer, Esq.
Roetzel & Andress, a Legal Professional Association
2320 First Street, Suite 1000
Fort Myers, Florida 33901

IN WITNESS WHEREOF, the undersigned, for the purpose of forming a Corporation to do business with the State of Florida, under the law of Florida, makes and files these Articles of Incorporation, hereby declares and certifies the facts herein stated are true and hereunto set my hand this 24 day of November, 2004.

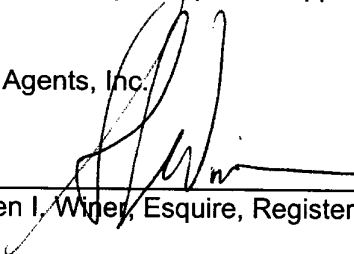


Steven I. Winer, Esquire, Incorporator

ACCEPTANCE OF REGISTERED AGENT

The undersigned, being the initial registered agent, hereby accepts the appointment as the Registered Agent for the Corporation.

R&A Agents, Inc.



Steven I. Winer, Esquire, Registered Agent

BYLAWS
OF
BELLEZZA AND AVALLONE HOMEOWNERS' ASSOCIATION, INC.

1. **GENERAL:** These are the Bylaws of Bellezza and Avallone Homeowners' Association, Inc., hereinafter the "Association", a corporation not for profit organized under the laws of Florida for the purpose of operating Bellezza and Avallone (the "Community") pursuant to the Florida Not-For-Profit Corporations Act.

1.1 **Principal Office.** The principal office of the Association is 8200 Health Center Boulevard, Suite 101, Bonita Springs, Florida 34135.

1.2 **Seal.** The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "not for profit." The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

1.3 **Definitions.** The definitions set forth in the Declaration of Covenants (the "Declaration") and the Florida Not-For-Profit Corporations Act, with particular reference to Section 720.301, F.S., (2003), shall apply to terms used in these Bylaws.

2. **MEMBERS:**

2.1 **Qualifications.** The members of the Association shall be the record owners of legal title to the Parcels in the Community (except as expressly stated to the contrary herein, the terms "Parcels", "Lots", "Units" and "Living Units" shall be utilized interchangeably). In the case of a Parcel subject to an agreement for deed, the purchaser in possession shall be deemed the owner of the Parcel for purposes of determining voting and use rights. Membership shall become effective upon the occurrence of the last to occur of the following events.

(A) Recording in the Public Records of a Deed or other instrument evidencing legal title to the Parcel in the member.

(B) Delivery to the Association of a copy of the recorded deed or other instrument evidencing title.

2.2 **Voting Interest.** The Class A Members of the Association are entitled to one (1) vote for each Parcel owned by them. The total number of Class A votes shall not exceed the total number of Parcels subject to this Declaration. Prior to transition (as referenced in Section 15 of the Declaration), the Class B Member shall be entitled to a number of votes equal to the total number of Parcels owned by the Class A Members plus one (1) vote. After transition, the Class B member shall be entitled to one (1) vote for each Parcel owned by the Class B member. If a Parcel is owned by one natural person, his right to vote shall be established by the record title to the Parcel. If a Parcel is owned jointly by two or more natural persons, that Parcel's vote may be cast by any one of the record owners. If two or more owners of a Parcel do not agree among themselves how their one vote shall be cast, that vote shall not be counted for any purpose. If the owner of a Parcel is a corporation, partnership, trust or other entity other than a

natural person, the vote of that Parcel shall be cast by any officer, director, partner or trustee, as the case may be.

2.3 Approval or Disapproval of Matters. Whenever the decision or approval of the Owner of a Parcel is required upon any matter, whether or not the subject of a Association meeting, such decision or approval may be expressed by any person authorized to cast the vote of such Parcel at an Association meeting as stated in Section 2.2 above, unless the joinder of all record owners is specifically required.

2.4 Change of Membership. A change of membership in the Association shall be established by the new member's membership becoming effective as provided in 2.1 above. At that time the membership of the prior owner shall be terminated automatically.

2.5 Termination of Membership. The termination of membership in the Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with the Community during the period of his membership, nor does it impair any rights or remedies which the Association may have against any former owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

3. MEMBERS' MEETINGS: VOTING:

3.1 Annual Meeting. There shall be an annual meeting of the members in each calendar year. The annual meeting shall be held in Lee County, Florida, each year at a day, place and time designated by the Board of Directors, for the purpose of transacting any business duty authorized to be transacted by the members.

3.2 Special Members' Meetings. Special members' meetings must be held whenever called by the President or by a majority of the Directors, and may also be called by members having at least ten percent (10%) of the voting interests. The business at any special meeting shall be limited to the items specified in the notice of meeting.

3.3 Notice of Meetings; Waiver of Notice. Notice of all members' meetings must state the time, date, and place of the meeting, and include an agenda for the meeting. The notice of meeting must be mailed to each member at the address which appears on the books of the Association, or may be furnished by personal delivery. The member is responsible for providing the Association with notice of any change of address. The Notice of Meeting must be mailed or delivered at least fourteen (14) days before the meeting. An affidavit of the officer or other person making such mailing shall be retained in the Association records as proof of mailing. Attendance at any meeting by a member constitutes waiver of notice by that member unless the member objects to the lack of notice at the beginning of the meeting. A member may waive notice of any meeting at any time, but only by written waiver.

3.4 Quorum. A quorum at meetings of the members shall be attained by the presence, either in person or by proxy, of members entitled to cast at least thirty (30%) percent of the votes of the entire membership. After a quorum has been established at a members' meeting, the subsequent withdrawal of any voting members, so as to reduce the number of voting interests represented below the number required for a quorum, shall not affect the validity of any action taken at the meeting before or after such persons leave.

3.5 Vote Required. The acts approved by a majority of the votes cast at a duly called meeting of the members at which a quorum has been attained shall be binding upon all members for all purposes, except where a greater or different number of votes is expressly required by law or by any provision of the governing documents.

3.6 Proxy Voting. To the extent lawful, any member entitled to attend and vote at a members meeting may establish his presence and cast his vote by proxy. A proxy shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting, and no proxy is valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the votes, specify the date, time and place of the meeting for which it is given, and the original must be delivered to the Secretary by the appointed time of the meeting or adjournment thereof. Holders of proxies need not be members. No proxy shall be valid if it names more than one person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy.

3.7 Adjourned Meetings. Any duly called meeting of the members may be adjourned to be reconvened at a specific later time by vote of the majority of the voting interests present in person or by proxy, regardless of whether a quorum has been attained. When a meeting is adjourned it shall be necessary to give notice to all members of the time and place of its continuance regardless of whether such are announced at the meeting being adjourned. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance, provided a quorum is then present, in person or by proxy.

3.8 Order of Business. The order of business at members' meetings shall be substantially as follows:

- (A) Call of the roll or determination of quorum.
- (B) Reading or disposal of minutes of last members meeting
- (C) Reports of Officers
- (D) Reports of Committees
- (E) Unfinished Business
- (F) New Business
- (G) Adjournment

3.9 Minutes. Minutes of all meetings of members and of the Board of Directors shall be kept in a businesslike manner and available for inspection by members or their authorized representatives and Board members at reasonable times and for a period of seven (7) years after the meeting. Minutes must be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each director present at a board meeting must be recorded in the minutes.

3.10 Parliamentary Rules. Roberts' Rules of Order (latest edition) shall guide the conduct of the Association meeting when not in conflict with the law, with the Declaration, or with these Bylaws. The presiding officer may appoint a Parliamentarian whose decision on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

4. BOARD OF DIRECTORS: The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Declaration, Articles of Incorporation, and these Bylaws, shall be exercised by the Board, subject to approval or consent of the Parcel owners only when such is specifically required.

4.1 Number and Terms of Service. The number of Directors which shall constitute the whole Board of Directors shall be three (3). The initial Directors shall be appointed by and shall serve at the pleasure of the Developer. At the Transition Meeting, and subsequently, Directors shall be elected in accordance with Florida law. At the Transition Meeting, a majority of Directors shall be elected to two (2) year terms, and the remaining directors shall be elected to a one (1) year term. The Directors shall decide amongst themselves who shall serve the longer terms. Thereafter, all directors shall serve two (2) year terms. A Director's term will end at the annual election at which his successor is to be duly elected, unless he sooner resigns, or is recalled as provided in 4.5 below.

4.2 Qualifications. Directors appointed by the Developer need not be members. Directors elected by the membership must be a member or the spouse of a member. If a unit is owned by a corporation, partnership or trust, any officer, director, partner, trustee, or trust beneficiary occupying the Unit, as the case may be, shall be eligible to be a Director.

4.3 Vacancies on the Board. If the office of any Director becomes vacant for any reason, other than recall by the membership at a membership meeting, a majority of the remaining Directors, though less than a quorum, shall promptly choose a successor to fill the remaining unexpired term except that vacancies of all Directors appointed by the Developer shall likewise be filled by the Developer. If the Association fails to fill vacancies on the Board sufficient to constitute a quorum, or if no member remains on the Board, the vacancy may be filled by the members (via a special meeting of the membership) or any member may apply to the Circuit Court for the appointment of a receiver to manage the Association's affairs, in the manner provided by Florida law.

4.4 Removal of Directors. Except for Directors appointed by the Developer, any or all Directors may be removed with or without cause by a majority vote of the entire membership, either by a written petition, or at any meeting called for that purpose, in the manner required by Florida law.

4.5 Organizational Meeting. The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election. The organizational meeting may be held immediately following the election, in which case noticing of the meeting may be effectuated by the Board existing prior to the election.

4.6 Other Meetings. Meetings of the Board may be held at such time and place in Lee County, Florida, as shall be determined from time to time by the President or a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone or telegram at least forty eight (48) hours prior to the day named for such meeting.

4.7 Notice to Owners. A meeting of the Board of Directors occurs whenever a quorum of the Board gathers to conduct Association business. All meetings of the Board of Directors shall be open to members except for meetings with the Board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notices of all Board meetings shall be posted conspicuously in the Community for at least forty-eight (48) continuous hours in advance of each Board meeting, except in an emergency. In the event of an emergency meeting, any action taken shall be noticed and ratified at the next regular meeting of the Board. In the alternative to the posting requirements discussed above, notice of each Board meeting must be mailed or delivered to each member at least 7 days before the meeting, except in an emergency, and the costs of such mailing shall be a common expense. An assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments.

4.8 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. If all Directors are present at a meeting, no notice to Directors shall be required.

4.9 Quorum of Directors. A quorum at a Board meeting shall exist when at least a majority of all Directors are present at a duly called meeting. Directors may participate in any meeting of the Board, by a conference telephone call or similar communicative arrangement whereby all persons present can hear all other persons. Participation by such means shall be deemed equivalent to presence in person at a meeting.

4.10 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum exists shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the governing documents or by applicable statutes. Directors may not vote by proxy or by secret ballot at Board meetings, except that secret ballots may be used in the election of officers.

4.11 Adjourned Meetings. The majority of the Directors present at any meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specific time and date.

4.12 The Presiding Officer. The President of the Association, or in his absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by majority vote of the Directors present.

4.13 Compensation of Directors and Officers. Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be reimbursed for all actual and proper out-of-pocket expenses relating to the proper discharge of their respective duties.

4.14 Committees. The Board of Directors may appoint from time to time such standing or temporary committees as the Board deem necessary and convenient for the efficient and effective operation of the Association. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. If required by law, committee meetings shall be open to attendance by any unit owner, and notice of committee meetings shall be posted in the same manner as required in Section 4.8 above for Board meetings.

5. OFFICERS:

5.1 Officers and Elections. The executive officers of the Association shall be a President, and a Vice-President, who must be Directors, a Treasurer and a Secretary, all of whom shall be elected annually by the Board of Directors. Any officer may be removed with or without cause by vote of a majority of all Directors at any meeting. Any person may hold two or more offices. The Board may, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one Vice-President.

5.2 President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the members and Directors, shall be ex-officio a member of all standing committees, shall have general and active management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect. He shall execute bonds, mortgages and other contracts requiring seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

5.3 Vice-Presidents. The Vice-Presidents in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President; and they shall perform such other duties as the Board of Directors shall assign.

5.4 Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of the members and shall cause all votes and the minutes of all proceedings to be recorded in a book or books to be kept for the purpose, and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of the members and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. He shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the governing documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one has been designated.

5.5 Treasurer. The Treasurer shall be responsible for Association funds and securities, the keeping of full and accurate amounts of receipts and disbursements in books belonging to the Association, and the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. He shall oversee the disbursement of the funds of the Association, keeping proper vouchers for such disbursements, and shall render to the President and Directors, at the meetings of the Board, or whenever they may require it, an accounting of all transactions and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if any has been designated.

6. FISCAL MATTERS: The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions:

6.1 Depository. The Association shall maintain its funds in such financial institutions authorized to do business in the State of Florida as shall be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board.

6.2 Budget. The Board of Directors shall adopt a budget of common expenses for each fiscal year. A copy of the proposed budget and a notice stating the time, date and place of the meeting of the Board at which the budget will be adopted shall be mailed to each member not less than fourteen (14) days prior to that meeting. The proposed budget shall reflect the estimated revenues and expenses for that year by categories, as well as the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities, whether owned by the Association, the developer, or another person, if any.

6.3 Reserves for Capital Expenditures and Deferred Maintenance. In addition to annual operating expenses, the proposed budget may include reserve accounts for capital expenditures and deferred maintenance. Any reserves collected may be utilized in the manner the Board determines in its discretion, unless the reserves are specifically classified as "restricted reserves" in which case those funds and any interest thereon shall be utilized only for their intended, restricted purpose, unless a majority of the members present, in person or by proxy, at a meeting called for such purpose, vote to utilize "restricted reserves" for other than the intended, restricted purpose.

6.4 Assessments. Regular annual assessments based on the adopted budget shall be paid either monthly, or quarterly, as determined by the Board. Failure to send or receive notice of assessments shall not excuse the obligation to pay. If an annual budget has not been adopted at the time the first installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last installment and shall be continued at such rate until a budget is adopted and pro rata assessments are calculated, at which time any overage or shortage shall be added or subtracted from each unit's next due installment.

6.5 Special Assessments. Special assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, unbudgeted, or non-recurring expenses. Special assessments are due on the day specified in the resolution of the Board approving such assessments. Subsequent to transition from Developer control of the Board of Directors, no special assessment shall be levied unless it is first approved by two-thirds of the voting interests.

6.6 Fidelity Bonds. The Treasurer, and all other officers who are authorized to sign checks, and all other persons having access to or control of Association funds, shall be bonded in such amounts as may be required by law or otherwise determined by the Board of Directors. The premiums on such bonds shall be a common expense.

6.7 Financial Reporting. Within 60 days following the end of the fiscal year, the Board of Directors shall mail or furnish by personal delivery to each member a financial report for the previous 12 months or a written notice that a copy of the financial report is available upon request at no charge to the member. The financial report shall consist of financial statements presented in conformity with generally accepted accounting principles; or a financial report of actual receipts and expenditures, cash basis, which report shows the amount of receipts and expenditures by classification and the beginning and ending cash balances of the Association.

6.8 Fiscal Year. The fiscal year shall be the calendar year, unless modified by the Board of Directors.

7. RULES AND REGULATIONS: USE RESTRICTIONS: The Board of Directors may, from time to time, adopt and amend rules and regulations subject to any limits contained in the

Declaration. Copies of such rules and regulations shall be furnished to each Parcel owner. Any rule or regulation created and imposed by the Board must be reasonably related to the promotion of health, happiness and peace of mind of the Parcel owners and uniformly applied and enforced. Subsequent to transition, and as long as Developer owns a Parcel, no new or amended rule shall be effective unless Developer grants its approval in writing, which approval may be denied in Developer's discretion.

8. COMPLIANCE AND DEFAULT: REMEDIES: In addition to the remedies provided elsewhere in the Governing Documents, the following provisions shall apply:

8.1 Obligations of members; Remedies At Law Or In Equity; Levy of Fines and Suspension of Use Rights.

(A) Each member and the member's tenants, guests and invitees, are governed by, and must comply with Chapter 720, Florida Statutes, and the Governing Documents. Actions at law or in equity, or both, to redress alleged failure or refusal to comply with these provisions may be brought by the Association or by any members against:

- (i) The Association;
- (ii) A member; and
- (iii) Any tenants, guests, or invitees occupying a parcel.

The prevailing party in any such litigation is entitled to recover reasonable attorney's fees and costs. This section does not deprive any person of any other available right or remedy.

(B) The Association may levy reasonable fines against Parcel owners, in those cases in which owners commit violations of Florida law governing homeowners' associations, the provisions of the governing documents or Association rules and regulations, or condone such violations by their family members, tenants, guests, or invitees. The fines shall be in an amount deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amounts allowed by law. A fine may be levied on the basis of each day of a continuing violation, with a single notice. The procedure for suspending use rights and imposing such fines shall be as follows:

(i) A fine or suspension may not be imposed without notice of at least fourteen (14) days to the person sought to be fined or suspended and opportunity for hearing before a committee of at least three members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, sister of an officer, director or employee, and the notice shall include:

- (1) A statement of the date, time and place of the hearing;
- (2) A statement of the provisions of Florida law, the Declaration, Bylaws or rules which have allegedly been violated; and,
- (3) A short and plain statement of the matters asserted by the Association; and,

(ii) The party against whom the fine may be levied shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. The Parcel owner shall be the party ultimately responsible for payment of a fine, regardless of whether the fine relates to conduct by a tenant, family member, invitee or guest.

(C) If the Committee, by majority vote, does not approve the fine or suspension, it may not be imposed.

(D) Fines that remain unpaid, in whole or in part, after thirty (30) days from the date due shall be secured by a lien against the Parcel of the owner responsible for payment of the fine. The lien shall be foreclosed in the same manner as a lien for assessments as provided elsewhere in the governing documents.

(E) The Association may levy fines because of the failure of the member to pay assessments or other charges when due in the manner set forth above, except that the Board of Directors may do so without the need for involvement of a Committee of members other than the Board.

(F) The Association may suspend the voting rights of a member but only for the nonpayment of regular annual assessments that are delinquent in excess of 90 days.

8.2 Availability of Remedies. Each member, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all members to give the Association methods and procedures which will enable it to operate on a businesslike basis, to collect those monies due it and to preserve the majority's right to enjoy the community free from unreasonable restraint and annoyance.

9. AMENDMENT OF BYLAWS: Amendments to these Bylaws shall be proposed and adopted in the following manner:

9.1 Proposal. Amendments to these Bylaws may be proposed by the Board of Directors or by written petition to the Board signed by the owners of at least one-fourth (1/4) of the Parcels.

9.2 Procedure. Upon any amendment or amendments to these Bylaws being proposed by said Board or Parcel owners, such proposed amendment or amendments shall be submitted to a vote of the owners not later than the next annual meeting for which proper notice can still be given.

9.3 Vote Required. Prior to transition of control of the Board of Directors from the Developer of the Community, amendments shall be adopted by the Board of Directors. Subsequent to transition of control of the Board of Directors, a proposed amendment to these Bylaws shall be adopted if it is approved by at least two-thirds (2/3rds) of the voting interests present and voting in person or by proxy at any annual or special meeting called for the purpose, provided that notice of the proposed amendment has been given to the members in accordance with law. As long as Developer owns a Parcel in the Community, an amendment to the Bylaws shall not be effective without the prior written consent of Developer, which consent

may be denied in Developer's discretion, provided, further, that regardless of whether Developer owns a Parcel, no amendment shall be effective if it affects Developer's rights or alters a provision herein made for Developer's benefit.

9.4 Certificate; Recording. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Bylaws, which certificate shall be in the form required by law and shall be executed by the President or Vice-President with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Lee County, Florida.

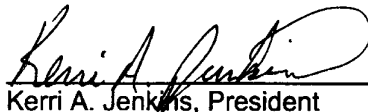
10. MISCELLANEOUS:

10.1 Gender. Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

10.2 Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

10.3 Conflict. If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration or Articles of Incorporation, the provisions of the Declaration or Articles of Incorporation shall prevail over the provisions of these Bylaws, and the Declaration shall prevail over the Articles.

The foregoing were adopted as the first Bylaws of Bellezza and Avallone HOMEOWNER'S ASSOCIATION, INC., on this 2nd day of December, 2004.


Kerri A. Jenkins, President