

DECLARATION OF
COVENANTS, RESTRICTIONS, EASEMENTS,
CHARGES AND LIENS
FOR
WELLINGTON

4553357

THIS DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS, CHARGES AND LIENS is made by Nova Capital, L.P., a Delaware limited partnership, authorized to transact business in the State of Florida as Mastercraft Homes, Ltd., (hereinafter referred to as "Declarant");

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property situate, lying and being in Lee County, Florida, as more particularly described in Exhibit A which is attached hereto and made a part hereof; and

WHEREAS, Declarant is desirous of subjecting such real property to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which are for the benefit of such property and each present and future owner and shall apply to and bind every present and future owner of said property and their heirs, legal representatives, successors and assigns.

NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit A is and shall be held, transferred, sold, conveyed, used and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. "Articles and By-Laws". It is intended that Articles of Incorporation for the Association be filed with the Florida Secretary of State, substantially in the form attached hereto as Exhibit B, and By-Laws for the Association be adopted substantially in the form attached hereto as Exhibit C.

Section 2. "Association" shall mean and refer to Wellington Homeowners Association of Lee County, Inc., a Florida not-for-profit corporation, its successors and assigns.

Section 3. "Common Area" shall mean all real property (and interests therein and improvements thereon) and personal property owned or leased by or dedicated to the Association, including any recreational facilities for the common use and enjoyment of the Owners and shall specifically include, without limitation, the surface water management system.

Section 4. "Declarant" shall mean and refer to Nova Capital, L.P., a Delaware limited partnership, authorized to transact business in the State of Florida as Mastercraft Homes, Ltd., and its specific successors and assigns, as set forth in ARTICLE X hereof.

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Section 5. "Director" shall mean any member of the Board of Directors of the Association, duly elected or appointed pursuant to Article IV of this Declaration.

Section 6. "Lot" shall mean a lot within the Property as shown on the plat of the subdivision upon which a Unit has been or is intended to be constructed.

Section 7. "Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, but excluding those having such interest merely as security for the performance of an obligation.

Section 8. "Member" shall mean a person or entity holding a Membership Interest in the Association.

Section 9. "Membership Interest" shall mean membership in the Association appurtenant to ownership of any Lot as more fully set forth in Article III hereof, together with all rights and obligations of membership as more fully described in this Declaration.

Section 10. "Owner" shall mean and refer to any Lot Owner.

Section 11. "Plat" shall mean the plat of Wellington, as recorded in the Public Records.

Section 12. "Property" shall mean and refer to that certain real property described in Exhibit A which is attached hereto and made a part hereof, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 13. "Public Records" shall mean the public records of Lee County, Florida.

Section 14. "Turnover Date" shall mean the date which is three (3) months after ninety (90%) percent of the Lots have been conveyed to Owners other than the Declarant.

Section 15. "Unit" shall mean any single family dwelling for which a certificate of occupancy has been issued, and shall include the Lot upon which said dwelling is located.

ARTICLE II

OWNER'S RIGHTS, APPURTENANCES, EASEMENTS AND OBLIGATIONS

Section 1. Membership.

There shall pass with each Lot as an appurtenance thereto membership in the Association.

Section 2. Owner's Easement of Use.

Every Owner shall have a right and easement of enjoyment in and to the Common Area for its intended purpose, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

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(a) The right of the Association, after notice and opportunity to be heard as provided in this Declaration and in the Articles and By-Laws, (i) to suspend the rights of an Owner, an Owner's tenants, guests, or invitees, or both, to use the Common Area; and (ii) to levy reasonable fines against any Owner or any tenants, guests or invitees.

(b) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective without consent of two-thirds (2/3rds) of the votes of all the Owners, and without prior written consent of Declarant so long as the Declarant holds any Membership Interest in the Association.

(c) Reasonable rules and regulations adopted by the Association governing use and enjoyment of the Common Area.

(d) The right of the Association to grant permits, licenses, and easements over, upon, across and below the surface of the Common Area for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property.

Section 3. Delegation of Use.

Any Owner may delegate, in accordance with the By-Laws of the Association (but subject to Rules and Regulations adopted from time to time by the Association), his or her right of enjoyment to the Common Area and any facilities thereon to the members of his or her family, guests, invitees, licensees, tenants, officers (if applicable), and contract purchasers who reside in the Unit, but no Owner may transfer such rights separate and apart from his or her Lot.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Owners' Easements of Enjoyment.

Every Owner of a Lot shall have a Membership Interest in the Association. Membership Interests shall be appurtenant to and may not be separated from ownership of any Lot. By acceptance of a deed or other instrument evidencing his or its ownership interest, each Owner accepts his Membership Interest in the Association, acknowledges the authority of the Association as herein stated, and agrees to abide by and be bound by the provisions of this Declaration, the Articles of Incorporation, the By-Laws and other rules and regulations of the Association. In addition to the foregoing, the family members, guests, invitees, tenants, employees, and independent contractors (including family members, guests and invitees of tenants) of said Owners shall, while in or on the Property, abide and be bound by this Declaration, the Articles of Incorporation, the By-Laws and other rules and regulations of the Association, including, but not limited to, rules and regulations regarding use of the recreational facilities.

Section 2. Designation of Membership Interests.

There shall be one Membership Interest in the Association appurtenant to each Lot. Initially, Declarant shall be entitled to all Membership Interests in the Association. The Membership Interest appurtenant to each Lot shall automatically pass upon each sale, conveyance or transfer of said Lot.

Section 3. Voting Rights.

The Association shall have two (2) classes of membership:

Class A. Class A members shall be all Owners of Lots (except the Declarant) and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall have a Membership Interest in the Association. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant. The Declarant shall be entitled to one (1) vote for each Membership Interest held by it in the Association; provided, however, that prior to the Turnover Date, Declarant shall at all times be entitled to no less than the number of votes equal to the maximum number of votes for all other classes plus one, so that the Declarant shall at all referenced times have a majority of votes.

ARTICLE IV

BOARD OF DIRECTORS

Section 1. Election of Directors.

(a) The affairs of the Association shall be managed by a Board of at least three (3) Directors. Initially, the Declarant shall have the right to appoint all of the Directors until such time as Class A Members hold fifty percent (50%) or more of the Membership Interests, at which time the Class A Members shall be entitled to elect one (1) Director and Declarant shall be entitled to appoint two (2) Directors.

(b) Within sixty (60) days after the Class A Members are entitled to elect a Director, the Association shall call, and give not less than thirty (30) days' nor more than forty (40) days' notice of, a meeting of the Class A Members for this purpose. Such meeting may be called and a notice given by any Class A Member if the Association fails to do so.

(c) The Declarant shall be entitled to appoint two (2) Directors until three (3) months after ninety percent (90%) of the Lots have been conveyed to Owners other than Declarant (i.e. the Turnover Date).

(d) The Declarant shall be entitled to appoint one (1) Director as long as Declarant is the holder of at least five percent (5%) or more of the Membership Interests in the Association, after which time all Directors shall be selected by the Class A Members.

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(e) Any Director appointed by the Declarant shall serve at the pleasure of the Declarant, and may be removed and substituted by Declarant, at its sole option and discretion.

(f) At such time as the Class A Members of the Association are permitted to elect Directors, any Director elected by the Class A Members, may be removed from the Board with or without cause, by a two-thirds (2/3) vote of the Class A Members of the Association entitled to vote. In the event of death, resignation or removal of a Director elected by the Class A Members, his successor shall be selected by the remaining Directors and shall serve the unexpired term of his predecessor.

Section 2. Construction.

The provisions of this Article IV shall control over the provisions of Article III of this Declaration.

ARTICLE V

COVENANT FOR ASSESSMENTS

Section 1. Purpose of Assessments.

The Association, through the Board of Directors shall, from time to time, levy assessments, both annual and special, against the Lots, to offset the Association's expenditures for promoting the recreation, health, safety, and welfare of the Owners; for the maintenance, repair, landscaping, replacement and reconstruction of the Common Areas, including any improvements constructed thereon and specifically including without limitation the surface water management system; for the payment of any real property or other taxes levied against the Common Area; and for such other activities or expenditures as the Association is required or permitted to undertake pursuant to this Declaration.

Section 2. Payment of Assessments.

The Declarant hereby covenants, creates and establishes, and each Owner, by acceptance of a deed or instrument of conveyance for the acquisition of title in any manner, shall hereafter be deemed to have covenanted and agreed to pay to the Association the following dues, fees, charges and assessments, subject to the provisions of Section 3 of this ARTICLE V:

(a) Any annual assessment or charge for the purpose of operating the Association and accomplishing any and all of its purposes. Such assessments shall be in equal amounts against the Owners of each Lot.

(b) Any special assessments for capital improvements, emergencies, or nonrecurring expenses; such assessments shall be in equal amounts against the Owners of each Lot.

(c) Assessments of any kind for the creation of reasonable reserves for the periodic maintenance, repair and replacement of improvements to the Common Area. Such assessments

shall be in equal amounts against the Owners of each Lot.

(d) Charges incurred in connection with the enforcement of any of the terms and conditions hereof, including reasonable attorney fees and costs against any Owner.

Section 3. Commencement of Assessments.

(a) Assessments for each Lot shall commence on the first day of the month following the conveyance of title thereto by the Declarant.

(b) Declarant shall be excused from payment of its share of the operating expenses and assessments for Lots owned by Declarant for the period of time (the "Guaranty Period") beginning with the recording of this Declaration and ending on the earlier of the following: (i) one (1) year after the date of the first conveyance of a Lot to an Owner other than Declarant; or (ii) the first date on which Declarant's appointees are no longer a majority of the Board of Directors of the Association. During this Guaranty Period, Declarant shall be obligated to pay any operating expenses incurred by the Association which exceed the assessments receivable from Members other than Declarant and the other income of the Association ("Declarant's Guaranty Obligation"). Declarant may, at Declarant's option, extend the Guaranty Period for additional periods of six (6) months each, but not beyond the first date that Declarant's appointees are no longer a majority of the Board of Directors of the Association, by giving written notice to the Association, in which case Declarant's Guaranty Obligation shall be correspondingly extended for the same time period. At the expiration of the Guaranty Period, Declarant's Guaranty Obligation shall expire.

Section 4. Creation of the Lien and Liability of the Owner.

The Declarant, for each Lot within the Property, hereby covenants, and each Owner by acceptance of a deed or other instrument of conveyance, whether or not it shall be so expressed in such deed or instrument, is deemed to covenant and agree that the annual and special assessments, or other charges and fees set forth in Section 1 of this Article V, together with interest, late fees, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon each Lot against which each such assessment is made. The lien shall be effective from and after recording a Claim of Lien in the Public Records, stating the description of the Lot, name of the Owner, amount due and the due dates. Each such assessment, together with interest, late fees, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person or legal entity who was the Owner at the time when the assessment came due, as well as his or her heirs, legal representatives, successors and assigns. No Owner may exempt himself or herself or his or her Lot from personal liability for assessments duly levied by the Association, or release the Lot from the liens and charges hereof by waiver of the use and enjoyment of the Common Areas or the facilities thereon, or by abandonment of his or her Lot.

Section 5. Establishment of Assessments.

The Board of Directors of the Association shall approve and establish all assessments which shall be payable by the Owners in accordance with the following procedures:

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(a) Annual assessments shall be established after the adoption of an operating budget for each fiscal year by the Board of Directors, and written notice of the amount thereof shall be given to each Owner not less than thirty (30) days prior to the commencement of such fiscal year. Annual assessments shall be payable at such time or times as the Board of Directors shall direct, which shall be in one annual installment until otherwise directed. Annual assessments may include an amount for reserves so as to enable the Association to establish and maintain an adequate reserve fund for periodic maintenance, repair and replacement of improvements in the Common Areas.

(b) Special assessments against the Owners and all other fees, dues and charges, including assessments for the creation of reasonable reserves, may be established by the Board of Directors at any regular or special meeting thereof, and shall be payable at such time or times as the Board of Directors shall direct.

(c) The Board of Directors may, from time to time, establish by a resolution, rule or regulation, specific fees, dues or charges to be paid by Owners for any special or personal use of facilities, or to reimburse the Association for the expenses incurred in connection with the enforcement of any of the terms of this Declaration. Such sums shall be payable by the affected Member at such time or times as shall be established by Board of Directors resolution, rule or regulation.

(d) The Association shall prepare a roster of the Owners and the assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. The Association shall, upon request, furnish any Owner a certificate in writing signed by an officer of the Association, setting forth whether his assessment has been paid and/or the amount which is due as of any date. As to parties without knowledge of error, who rely thereon, such certificates shall be conclusive evidence of payment or partial payment of any assessment therein stated having been paid or partially paid.

(e) Declarant may establish a working capital fund for the initial months of operation of the Association, which shall be paid to the Association by each purchaser at the time of conveyance of each Lot by the Declarant to such purchaser, in an amount equal to Fifty and No/100 Dollars (\$50.00) per Lot. Each Owner's share of the working capital fund shall be collected and transferred to the Association at the time of closing of the sale of each Lot. The purpose of this fund is to assure that the Association's Board of Directors will have cash available to meet any legitimate Association expense, or to acquire additional equipment or services deemed necessary or desirable by the Board of Directors. Amounts paid into the working capital fund at closing are not to be considered advance payment of regular assessments or as a reserve fund pursuant to Section 1 of this Article V, and are not refundable or transferable. Declarant shall be entitled to reimbursement by the Association from such working capital contributions for utility deposits, insurance premiums and other sums advanced by Declarant on behalf of the Association.

Section 6. Effect of Nonpayment of Assessments; Remedies of the Association.

If any assessment is not paid within ten (10) days of the due date, interest shall be paid on the outstanding balance at the lower of eighteen percent (18%) per annum or the highest rate

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permitted by law. Such interest shall be compensation to the Association as liquidated damages for administrative expenses with respect to such collection and shall not be imposed as a penalty. The Association may at any time thereafter bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Lot against which the assessment was levied. The Association shall not be required to bring such an action if it believes that the best interests of the Association would not be served by doing so. There shall be added to the assessment all costs and expenses, including attorneys' fees, required to collect same.

Section 7. Subordination of the Lien of Mortgages.

As hereinabove provided in Section 2 of this Article V, the lien of the Association for assessments and other charges of the Association becomes effective from and after recording of a Claim of Lien in the Public Records. This lien of the Association shall be subordinate to a first mortgage on any Lot, which mortgage is recorded in the Public Records prior to any said Claim of Lien against the same Lot being recorded in the Public Records. A lien for assessments shall not be affected by any sale or transfer of a Lot; provided, however, that in the event of a sale or transfer pursuant to a foreclosure of a first mortgage or deed in lieu of foreclosure, the acquirer of title or his or her successors and assigns, shall not be liable for assessments pertaining to the Lot or chargeable to the former Owner which became due prior to such sale or transfer. However, any such unpaid assessments for which such acquirer of title is not liable, may be reallocated and assessed to all Owners (including such acquirer of title) as an Association expense. Any such sale or transfer pursuant to a foreclosure or deed in lieu of foreclosure shall not relieve the purchaser or transferee of a Lot of liability for, nor the Lot from the lien of, any assessments made thereafter. Nothing herein contained shall be construed as releasing the party liable for any delinquent assessments from the payment thereof, or the enforcement of collection by means other than foreclosure.

ARTICLE VI

MAINTENANCE OBLIGATION OF ASSOCIATION

Section 1. Maintenance of Common Area.

Maintenance of the Common Area shall be the responsibility of the Association. In the event any portion of the Common Area, including the Roadway, Lake, Recreation and Open Space Areas (as hereinafter defined), is conveyed, provision will be made guaranteeing maintenance and protection of the Roadway, Lake, Recreation and Open Space Areas. The Association's responsibility hereunder shall include the repair and maintenance of any landscaping, trees, shrubs, grass, sprinkler heads, walks, drives, parking areas and other improvements situated within the Common Area, and shall specifically include, without limitation, the responsibility to operate and maintain the surface water management system in accordance with the requirements of the South Florida Water Management District. Upon dissolution of the Association, the responsibility to operate and maintain the surface water management system shall be transferred to an appropriate agency of local government or to a similar not for profit association or corporate entity.

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Section 2. Maintenance of Signage and Other Areas.

Without limitation of the foregoing, the Association shall also be responsible for maintaining the following areas: any signage relating to the identification of the Property, directional signage, and any directories and traffic signage; any landscaping and irrigation lines which may be located within areas designated as buffer and drainage easements and within and adjacent to the entrance way to the Property. In addition, the Association may, with the approval of its Board of Directors, maintain or contribute to the maintenance of off-site landscaping or other improvements, if determined by the Board to be in the best interest of the Association.

Section 3. Permits, Licenses and Easements.

Subject to the provisions of Article IX, Section 2, the Association shall have the right to grant permits, licenses and easements over, upon, across, under and through the Common Areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance and operation of the Common Area, as so determined by the Board of Directors of the Association.

Section 4. Hurricane Preparedness Plan.

The Association hereby adopts the Wellington Hurricane Preparedness Plan which is attached as Exhibit "D" to this Declaration.

Section 5. Delegation.

Notwithstanding the above, the Association may contract with one or more independent contractors for the performance of any or all of the maintenance responsibilities described herein.

ARTICLE VII

MAINTENANCE OBLIGATION OF OWNERS

Section 1. Maintenance of Lots and Units.

Every Owner must keep and maintain his or her Lot and Unit, including, but not limited to, the dwelling(s), all other improvements thereon, easement areas (buffer, drainage, emergency access, Lake maintenance, and lift station easements, as shown on the Plat), and the improvements and appurtenances, at his or her expense, in good order, condition and repair.

Section 2. Prohibition.

Each and every Owner is strictly prohibited from improving, modifying or maintaining any Common Area or from performing any maintenance duties of the Association without the prior written consent of the Board of Directors.

ARTICLE VIII

ROADWAY, RECREATION, LAKE AND OPEN SPACE AREAS

Section 1. Roadway Easement.

The Association shall be responsible for the maintenance and preservation of the areas designated on the Plat as Tract "A" Private Road Right-of-Way, Ingress, Egress, Utility & Maintenance Easement (referred to as the "Roadway Easement") and, notwithstanding anything to the contrary contained in this Declaration, no structure shall be commenced, erected, or maintained upon any part of the Roadway Easement without the approval of the Association.

Section 2. Lake Area.

The Association shall be responsible for the maintenance and preservation of the areas designated on the Plat as Tract "B" Lake/Water Management and Drainage Easement (referred to as the "Lake") and, notwithstanding anything to the contrary contained in this Declaration, no structure shall be commenced, erected, or maintained upon any part of the Lake Area without the approval of the Association.

Section 3. Recreation Area.

The Association shall be responsible for the maintenance and preservation of the area designated on the Plat as Tract "C" Common Area, Landscape, Signage, Utility, Drainage & lake Maintenance Access Easement (referred to as the "Recreation Area"). The Recreation Area shall not be developed and, notwithstanding anything to the contrary contained in this Declaration, no structure shall be commenced, erected, or maintained upon any part of the Recreation Area without the approval of the Association.

Section 4. Open Space Areas.

Notwithstanding anything to the contrary contained in this Declaration, no structure shall be commenced, erected or maintained upon any part of the Property designated either on the Plat or by the Association as an open space area, buffer easement, drainage easement, lake maintenance easement, or emergency access easement (collectively referred to as "Open Space Areas"). Such Open Space Areas shall not be developed and may be used solely for drainage, signage and for landscaping purposes, as determined by the Association, which do not impede the flow of water.

Section 5. Fill and Grade.

No fill shall be removed from any Lot nor shall the Owner of any Lot do anything to change or interfere with the drainage of stormwater. No change shall be made with respect to the original grade and contour of swales unless first approved in writing by the Association.

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ARTICLE IX

EASEMENTS

Section 1. Easements Generally.

(a) Easements are reserved throughout the Property as may be required for irrigation lines and to provide utility services (which shall include, but not be limited to, electricity, water, sewer, cable television and security systems), to adequately serve the Property, provided, however, that such easements through a Lot shall not interfere with the use thereof or construction of a dwelling thereon, unless otherwise approved in writing by the Owner thereof.

(b) Easements are created throughout the Property as may be necessary from time to time for the maintenance, repair or reconstruction of the Property. Without limitation of the foregoing, the Association is hereby granted an easement upon all such portions of the Property as may be necessary for such purposes provided, however, that such easements through a Lot shall not interfere with the use thereof or construction of a dwelling thereon, unless otherwise approved in writing by the Owner thereof.

(c) A nonexclusive easement is created for pedestrian traffic over, through and across sidewalks, paths, walks and lanes as the same may from time to time exist upon the Common Area, and for vehicular traffic over, through and across such portions of the Common Area as may from time to time be paved and intended for such purposes, but the same shall neither give nor create in any person the right to park upon any portions of the Common Area except those areas, if any, specifically designated for such purpose. The parking areas, private roads and other Common Areas contained within the Property shall be used in common or exclusively by Owners, their family members, guests and lessees, but only for the purposes for which same are intended and as and to the extent provided in this Declaration.

(d) It is the intention of this Article IX to create perpetual easements over and across the above-described areas to facilitate the flow of pedestrian and vehicular traffic on the Property, to provide reasonable access to Units and Lots and to the public ways and to provide adequate utilities to serve the Property.

Section 2. Easement for Encroachments.

(a) The Declarant hereby specifically creates and reserves unto itself and its successors and assigns a nonexclusive, perpetual easement for any minor encroachment on a Lot of a wall or fence constructed on the Lot line of an adjacent Lot. This easement shall be a continuous easement and shall cover similar future encroachments which may occur in connection with the changing of various elevation features or the replacement of existing features.

(b) If (i) any portion of the Common Area or improvements thereon encroaches upon any other portion of the Property; or (ii) any other portion of the Property, or improvements thereon, encroaches upon the Common Area; or (iii) any encroachment shall hereafter occur pertaining to the Property as the result of (1) settling or shifting of a Unit or other improvement; (2) any repair to the Common Area or any other portion of the Property, then, in any such event, a valid

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easement shall exist for such encroachment and for the maintenance of same as long as such structure shall exist.

(c) If and whenever any structure included in the Common Area adjoins any structure on any portion of the Property, each said structure shall have and be subject to an easement of support as necessary in favor of the other structure.

ARTICLE X

RIGHTS OF DECLARANT; EASEMENTS

Section 1. Sales Office.

For so long as the Declarant owns any property affected by this Declaration, the Declarant shall have the right to transact any business necessary to consummate sales of any Units or Lots within the Property or other properties owned by Declarant, including, but not limited to, the right to (1) maintain model dwellings, (2) have signs on any portion of the Property, (3) have employees in the offices, (4) use the Common Area, (5) provide parking for its employees and prospective purchasers, and (6) show dwellings constructed upon Lots owned by Declarant. Sales Office signs and all items pertaining to sales shall remain the property of the Declarant.

Section 2. Easements.

Declarant reserves the exclusive right, prior to the Turnover Date, to grant, in its sole discretion, easements for ingress and egress, for drainage, utilities service, cable TV and/or CATV service and other similar purposes over, upon, across and below the surface of the Property so long as any said easements do not run over, upon, across or below that portion of a Lot on which a dwelling is to be or has been constructed unless approved in writing by the Owner thereof or interfere with the intended uses of any portion of the Property.

Section 3. Service Easement.

Declarant hereby grants to delivery, pickup and fire protection services, police and other authorities of the law, United States mail carriers, representatives of electrical, telephone, cable television and other utilities authorized by the Declarant to service the Property, and to such other persons as the Declarant from time to time may designate, the nonexclusive, perpetual right of ingress and egress over and across the Common Area for the purposes of performing their authorized services and investigation.

Section 4. Declarant Easements.

The Declarant hereby reserves to itself, its successors and assigns, and to such other persons as Declarant may from time to time designate, a perpetual easement, privilege and right in and to, over, under, on and across the Property for ingress and egress as required by its officers, directors, employees, agents, independent contractors, invitees and designees; provided, however, that such access and use do not unnecessarily interfere with the reasonable use and

enjoyment of the Property by the Owners. Nothing herein shall be construed to authorize the Declarant or any person designated by the Declarant to enter any dwelling comprising a Unit without the permission of the Unit Owner.

Section 5. Assignment of Powers.

All or any part of the rights and powers and reservations of the Declarant contained in this Declaration may be deeded, conveyed, or assigned to other persons or entities by an instrument in writing duly executed, acknowledged and recorded in the Public Records.

ARTICLE XI

PROHIBITED USES

Section 1. No temporary or permanent buildings, structures or other improvements shall be constructed, erected or maintained upon any Lot, nor shall the exterior appearance of any Unit be altered, without the prior approval of the Architectural Control Committee, including screened enclosures, patios, concrete slabs, fences, walls, tents, utility or storage sheds. The foregoing prior approval is also intended to specifically apply to the painting of a Unit (other than its original colors), and it is specifically intended that the Architectural Control Committee shall be empowered to approve or disapprove of the colors of the exteriors of all Units and other improvements constructed on the property at the time of any repainting or other resurfacing thereof.

Section 2. No unit garages shall be enclosed or converted into living or habitable area. Unit garage doors shall be required to remain in place at all times, and no construction or conversion shall change the exterior of any garage so as to interfere with the use of it as a storage for vehicles. Garage doors shall be closed at all times except to permit ingress and egress of vehicles.

Section 3. No horses, hogs, pigs, cattle, cows, goats, sheep, poultry or other animals, birds or reptiles shall be kept, raised or maintained; provided, however, that dogs, cats, birds, and other household pets may be kept in reasonable numbers in a Unit if their presence causes no disturbance to others. All pets shall be kept on a leash when not within the Owner's Unit.

Section 4. No stable, livery stable or barn shall be erected, constructed, permitted or maintained on any portion of the Property.

Section 5. Trucks, boats, trailers, recreation vehicles, motor homes, motorcycles, golf carts or any other transportable personal property shall not be parked or stored on any Lot, except in a closed garage. All automobiles and any other vehicles must be fully operational. No repairs (except minor emergencies) shall be made on any portion of the Property.

Section 6. No trade, business or any commercial use shall be conducted in or from any Unit.

Section 7. All Units shall be kept in a clean and sanitary manner and no rubbish, refuse

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or garbage allowed to accumulate, or any fire hazard allowed to exist. All Units shall be maintained in a first class condition.

Section 8. Each Owner shall be responsible for properly depositing his garbage and trash in garbage cans and trash containers sufficient for pick-up by the appropriate authorities. Empty garbage cans and trash containers shall not be allowed to remain at curbside overnight.

Section 9. No nuisance or any use or practice that is a source of annoyance to other Owners, or interferes with the peaceful possession and proper use of the Units by the residents thereof shall be allowed upon any Unit.

Section 10. No improper, offensive or unlawful use shall be made of any Lot or Unit and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be strictly observed.

Section 11. No person shall use any Lot or Unit or any part thereof in any manner contrary to this Declaration.

Section 12. No Owner, including their guests, employees, tenants and agents, shall interfere with the completion and sale of the Lots or Units.

Section 13. No barbecue grills or other outdoor cooking equipment, bicycles, toys or other personal property may be kept or stored outside of a screened or fenced enclosure so as to be visible from the street.

Section 14. No individual water well, water supply system or sewer system shall be installed on any Lot, except that an Owner may install an irrigation well with the approval of the Architectural Control Committee of the Association and with appropriate governmental permits.

Section 15. Each Owner shall exercise extreme care to regulate the use and occupancy of his Unit so as not to disturb other persons occupying Units within the Property and to minimize noises including but not limited to noises from the use of musical instruments, radios, televisions sets, stereo equipment, amplifiers or other loudspeaker devices.

Section 16. No Owner shall store, keep or dispose of any inflammable, combustible, explosive, hazardous or toxic fluids, chemicals or substances (except those sold and required for normal household use) in any Unit or storage area or elsewhere on the Property.

Section 17. No Owner shall install or maintain any aluminum foil or other reflective substance on any window or glass door, except such as is approved by the Architectural Control Committee or the Board of Directors for energy conservation purposes.

Section 18. No Lot shall be partitioned or subdivided, except by the Declarant who shall, by an instrument recorded in the public records prior to or contemporaneously with the conveyance by Declarant of less than all of a Lot, apportion the Membership Interest, including voting rights and assessment responsibilities, between the respective portions of the subdivided Lot on such basis as the Declarant shall determine to be fair and equitable; provided that the sum

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of the parts shall at all times equal one. Each portion of any Lot which has been subdivided by Declarant shall be sold, transferred or otherwise conveyed only as an appurtenance to an adjoining Lot. Further that portion of the Membership Interest relating to each portion of the subdivided Lot shall convert to a fractional Class A Membership Interest at such time as the Membership Interest relating to the adjoining Lot to which the respective portion is appurtenant converts to a Class A Membership and shall thereafter be responsible for the full assessment due as though a Unit had been constructed thereon, prorated only to reflect its proportionate Membership Interest.

Section 19. The above restrictions set forth in this Article XI shall not apply to Declarant or its agents, employees, successors or assigns so long as Declarant holds any Membership Interests in the Association.

ARTICLE XII

ARCHITECTURAL CONTROL COMMITTEE

Section 1. The Board of Directors shall appoint an Architectural Control Committee of not less than three (3) nor more than five (5) Members. Members of the Architectural Control Committee may be members of the Board of Directors. The Architectural Control Committee shall be charged with the responsibility of reviewing all plans for the construction or alteration of any Unit. All decisions of the Architectural Control Committee shall be in writing and shall be based on conformity with this Declaration and with compatibility of the proposed improvements with the then existing structures within the community. Decisions of the Architectural Control Committee may be overruled by a two-thirds (2/3) vote of the Board of Directors.

Section 2. Any member of the Architectural Control Committee may at any reasonable time, with reasonable advance notice, enter upon any Lot for the purpose of inspecting any building or property subject to the jurisdiction of the Architectural Control Committee. Any alleged violation of the architectural restrictions contained herein shall be submitted to the Covenants Enforcement Committee.

Section 3. In the event any Unit or other improvement on a Lot is damaged or destroyed, in whole or in part, the Owner of such property shall promptly take action deemed necessary by the Architectural Control Committee to correct any unsightly or dangerous condition resulting from such damage or destruction. The Owner shall have the right to rebuild or repair any damage in accordance with the original plans and specifications for the Unit and in accordance with any prior approvals of the Architectural Control Committee for such Unit. Any deviations therefrom shall require the approval of the Architectural Control Committee.

Section 4. The approval of the Architectural Control Committee of any proposals or plans for any work done or proposed shall not be deemed to be an approval of any similar plans by any Owner or constitute a waiver of any right to review or withhold approval as to any similar proposals subsequently submitted for approval by any Owner.

Section 5. This Article shall not be deemed to excuse any Owner from compliance

with all local building and construction codes, ordinances and regulations, and all improvements shall be constructed with proper building permits and in conformity with all applicable local codes, ordinances and regulations.

Section 6. The Declarant, and any Lot owned by Declarant or on which Declarant is constructing a Unit for any Member of the Association, and any improvements made by Declarant, shall be exempt from the requirement for approval by the Architectural Control Committee. Further, Declarant reserves the right to grant exemptions, from time to time, from the provisions of this Article to any builder who is constructing a Unit for any Member of the Association on a Lot acquired from the Declarant.

Section 7. The provisions of this Article may not be amended without the concurrence of the Declarant so long as the Declarant holds any Membership Interest in the Association.

ARTICLE XIII

ENFORCEMENT OF PROVISIONS

Section 1. In the event of a violation (other than the nonpayment of an assessment) by an Owner of any of the provisions of this Declaration, the Articles or the By-Laws, or the Rules and Regulations adopted pursuant to any of same, as the same may be amended or added to from time to time, and in addition to the means for enforcement provided elsewhere herein, the Association shall have the right to assess reasonable fines against an Owner or its lessees, in the manner provided herein, and such fines shall be collectible as any other assessment, so that the Association shall have a lien against each Lot and Unit for the purpose of enforcing and collecting such fines.

Section 2. The Board of Directors shall appoint a Covenants Enforcement Committee (the "Committee") of not less than three (3) nor more than five (5) Members who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. The Committee shall be charged with determining whether any of the provisions of this Declaration, the Articles and By-Laws, and the Rules and Regulations of the Association are being or have been violated.

Section 3. If the Board of Directors determines that there is probable cause of the existence of such a violation, the Board of Directors shall thereupon provide written notice to the person alleged to be in violation, and to the Owner. The notice of violation shall state: (1) the specific nature of the alleged violation; (2) that the owner may request the opportunity for a hearing before the Committee upon a request therefor made within fourteen (14) days after the sending of the notice; (3) that each recurrence of the alleged violation or each day during which it continues shall be deemed a separate offense, subject to a separate fine not to exceed Fifty Dollars (\$50.00) for each offense; and (4) that the Owner must request a hearing before the Committee or respond to the notice of violation within fourteen (14) days after mailing of the notice of violation.

Section 4. If a hearing is timely requested, the Committee shall hold same, and shall

hear any defense to the charges of violation, including any witnesses that the alleged violator, the Owner, the Board of Directors or the Committee may produce. Any party at the hearing may be represented by counsel.

Section 5. Subsequent to any hearing, the Committee shall determine whether there is sufficient evidence of the alleged violation. If the Committee so determines, it shall so advise the Board of Directors, which may then levy a fine for each violation in an amount not to exceed Fifty Dollars (\$50.00) or take other action as provided in this Declaration. If no hearing is timely requested, the Board of Directors may then levy a fine for each violation with the limit stated above or take other action as provided in this Declaration.

Section 6. A fine pursuant to this section shall be assessed against the Lot or Unit which the violator occupied at the time of the violation, and shall be collectible in the same manner as any other assessment, including by means of the Association's lien rights as provided in the Declaration.

Section 7. Any fines which are not paid when due, as determined by the Board, shall be delinquent, and the Board may assess reasonable late fees, interest at the highest rate permitted by law and reasonable administrative costs and attorneys' fees and costs incurred by the Association in connection with collection and/or appeal, if any, all of which shall be added to the amount of such fine.

Section 8. Nothing herein shall be construed as a prohibition of or a limitation on the right of the Board of Directors to pursue other means to enforce the provisions of this Declaration, Articles of Incorporation, the By-Laws and Rules and Regulations, including but not limited to legal action for damages or injunctive relief.

Section 9. Failure to enforce any of the provisions of this Declaration shall in no event be deemed a waiver of the right to do so thereafter, as to the same breach or as to a breach occurring prior or subsequent thereto.

Section 10. The provisions of this Article XIII shall not apply to the imposition of suspensions or fines upon any Owner because of the failure of such Owner to pay assessments or other charges when due. Such suspensions or fines are governed by Article V of this Declaration.

ARTICLE XIV INFORMATION TO LENDERS AND OWNERS

Section 1. Persons Entitled.

The Association shall make available to all Members, and to lenders, and to holders, insurers, or guarantors of any mortgage on any Lot, current copies of this Declaration of Restrictions, the Articles of Incorporation or By-Laws of the Association, other rules concerning the Property and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other

reasonable circumstances.

Section 2. Notices Provided.

Upon written request to the Association by a holder, insurer or guarantor of any mortgage of a Lot ("Lender"), which written notice shall identify the name and address of the Lender, the Lot number and address thereof, the Lender will be entitled to timely written notice of:

(a) Any condemnation loss or casualty loss which affects either a material portion of the Property, or the Lot or Unit securing its mortgage;

(b) Any delinquency in the payment of assessments or charges owed by an Owner of a Lot or Unit subject to a mortgage held by the lender, which remains uncured for a period of sixty (60) days;

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) Any proposed action which would require the consent of a specified percentage of mortgage holders.

(e) Such other information as may be reasonably requested from time to time by a Lender.

ARTICLE XV

INSURANCE

Section 1. Owners.

It shall be each Owner's responsibility, and shall in no event be deemed an obligation of the Association, to purchase and maintain policies of fire and other hazard coverage insurance on his Unit and all other insurable improvements situated upon his Lot, as well as all personal property, in an amount equal to the full replacement cost thereof, or such other amount as determined by Owner, and such policies of liability insurance for accident or injury occurring on or about his Lot as he may deem appropriate.

Section 2. Association.

The Association shall purchase and maintain a policy of property insurance covering any improvements upon the Common Areas (except land, foundation, excavation and other items normally excluded from coverage) any fixtures and building service equipment and common personal property and supplies, flood insurance (if the Property is located in a flood hazard area, liability insurance, fidelity bonds, and such other insurance as the Board of Directors deems necessary and reasonable. The amount of any such insurance coverage, limits of liability, deductible amount and other terms and conditions of any such insurance shall be determined by the Board of Directors.

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ARTICLE XVI

GENERAL PROVISIONS

Section 1. Severability.

Invalidation of any one or more of the provisions of this Declaration shall in no way affect any other provisions which shall remain in full force and effect.

Section 2. Term of Declaration.

The provisions of this Declaration shall run with and bind the land, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each, unless terminated by recordation in the Public Records of an instrument signed by persons holding at least two-thirds (2/3) of the Membership Interests in the Association and by all holders of mortgages affecting any Lot.

Section 3. Amendments.

Except as may otherwise be indicated elsewhere herein, this Declaration may be amended at any time and from time to time upon the execution and recordation in the Public Records of an instrument executed by persons holding at least two-thirds (2/3) of the Membership Interests in the Association; provided, however, that so long as Declarant holds any Membership Interest in the Association, no amendment shall be effective without the written concurrence of the Declarant. No amendment shall alter the subordination provisions of this Declaration without the prior approval of any mortgagee enjoying such protection. No amendment shall affect the surface water management system, including the water management portions of the Common Area, without the prior approval of the South Florida Water Management District.

Section 4. Notices.

Any notice required to be sent to any Member under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage paid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

Section 5. Enforcement.

Enforcement of the provisions of this Declaration shall be by any proceeding at law or in equity and may be instituted by the Declarant, its successors or assigns, the Association, its successors or assigns, or any Owner against any person or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and against the land and to enforce any lien created by this Declaration. Failure by the Association or any Owner or the Declarant to enforce any provision herein contained for

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any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter.

Section 6. Interpretation.

In all cases, the provisions of this Declaration shall be given that interpretation or construction that will best tend toward the consummation of the general plan of improvements.

Section 7. Authorized Action.

All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association as approved by the Board of Directors of the Association in the manner provided for in the By-Laws of the Association, unless the terms of this instrument provide otherwise.

Section 8. Execution of Documents.

The development of the Property may require from time to time the execution of certain documents required by governmental agencies, including, without limitation, Lee County, Florida. To the extent that said documents require the joinder of Owners, the Declarant by its duly authorized officers may, as the agent or the attorney-in-fact for the Owners, execute, acknowledge and deliver such documents and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint the Declarant, through its duly authorized officers, as their proper and legal attorneys-in-fact for such purpose. Said appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section shall recite that it is made pursuant to this Section.

Section 9. Singular, Plural and Gender.

Whenever the context so permits, the use of the singular shall include the plural and the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

IN WITNESS WHEREOF, the undersigned, being the Declarant hereunder, has hereunto set its hand and seal this 26 day of OCTOBER, 1998.

WITNESSES:

DECLARANT:

Nova Capital, L.P., a Delaware Limited Partnership, authorized to transact business in the State of Florida as Mastercraft Homes, Ltd.

[Signature]
Bruce Russell
[Signature]
Gregg S. Truxton

By: MCH Holdings, Inc., a Delaware corporation, Its sole general partner

By: *[Signature]*
James L. Southern III, President

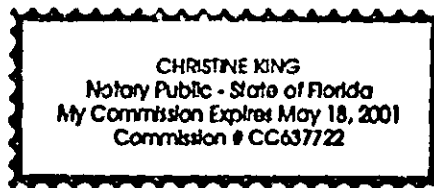
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STATE OF FLORIDA)
)SS:
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 26 day of OCTOBER, 1998 by James L. Southern, III, as President of MCH Holdings, Inc., a Delaware corporation, as the sole general partner of Nova Capital, L.P., a Delaware Limited Partnership, authorized to transact business in the State of Florida as Mastercraft Homes, Ltd., who is personally known to me or produced _____ as identification.

Christine King
Notary Public, State of Florida
Print Name: CHRISTINE KING

My commission expires:



This instrument was prepared by:
Gregg S. Truxton, Esq.
Bolaños, Truxton & Youngs, P.A.
2121 Ponce de Leon Blvd., Suite 600
Miami, Florida 33134

WELL.DEC

OR3067 P61103

EXHIBIT "A"
TO
DECLARATION OF
COVENANTS, RESTRICTIONS, EASEMENTS,
CHARGES AND LIENS
FOR
WELLINGTON HOMEOWNERS ASSOCIATION OF LEE COUNTY, INC.

Legal Description:

All of Wellington according to the Plat thereof recorded in Plat Book 62 at Page 56 of the Public records of Lee County, Florida.

EXHIBIT "B"

TO

DECLARATION OF COVENANTS, RESTRICTIONS
EASEMENTS, CHARGES AND LIENS

ARTICLES OF INCORPORATION

OF

WELLINGTON HOMEOWNERS ASSOCIATION OF LEE COUNTY, INC.

DR3067 P61105

State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of WELLINGTON HOMEOWNERS ASSOCIATION OF LEE COUNTY, INC., a Florida corporation, filed on September 15, 1998, as shown by the records of this office.

The document number of this corporation is N98000005259.

0R3067 Pg 1 106

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Fifteenth day of September, 1998



CR2EO22 (2-95)

Handwritten signature of Sandra B. Northam in cursive.

Sandra B. Northam
Secretary of State

**ARTICLES OF INCORPORATION
OF
WELLINGTON HOMEOWNERS ASSOCIATION OF LEE COUNTY, INC.
(A Corporation Not-For-Profit)**

In compliance with the requirements of the laws of the State of Florida, the undersigned hereby associate themselves together for the purpose of forming a corporation not-for-profit under Chapter 617, Florida Statutes, and do hereby certify:

ARTICLE I.

NAME

The name of the corporation is:

WELLINGTON HOMEOWNERS ASSOCIATION OF LEE COUNTY, INC.

(hereinafter called the "Association").

ARTICLE II

REGISTERED OFFICE

The street address of the Association is 9311 College Parkway, Suite 1, Ft. Myers, Florida 33919.

ARTICLE III

PURPOSES OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for operation, maintenance and preservation of the Common Area and improvements thereon, within that certain real property (and any additions thereto) described in the Declaration of Covenants, Restrictions, Easements, Charges and Liens for Wellington Homeowners Association of Lee County, Inc. as recorded in the Public Records of Lee County, Florida (the "Declaration"), and to promote the health, safety and welfare and mutual enjoyment of the members of the Association.

FILED
06 SEP 15 PM 12:18
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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ARTICLE IV

POWERS OF THE ASSOCIATION

The Association shall have all the powers and duties reasonably necessary to operate and maintain the Association, including, but not limited to, the following:

A. Exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration and as the same may be amended from time to time as therein provided;

B. Fix, levy, collect and enforce payment by any lawful means, of all charges or assessments pursuant to the terms of the Declaration or By-Laws of the Association; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

C. Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer or otherwise dispose of real or personal property in connection with the affairs of the Association including, without limitation, the Common Area;

D. To operate and maintain the surface water management system in accordance with the requirements of the South Florida Water Management District, and to contract for services to provide for the operation and maintenance of the surface water management system; provided, however, in the event the Association is dissolved, the surface water management system, and the property comprising such system, will be conveyed and be dedicated to a non-profit organization so as to assure continued maintenance of the surface water management system in perpetuity;

E. With the assent of two-thirds (2/3) of the Membership Interests at a duly called meeting of the Association, borrow money and mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and only if the prior written consent of Declarant is obtained for so long as Declarant holds any Membership Interest in the Association;

F. Dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective without obtaining consent of two-thirds (2/3) of the Membership Interests; and only if the prior written consent of Declarant is obtained for so long as Declarant holds any Membership Interest in the Association;

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G. Participate in mergers and consolidations with other non-profit corporations organized for the same purposes or annex additional Common Area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3) of the Membership Interests of the Association; and only if the prior written consent of Declarant is obtained for so long as Declarant holds any Membership Interest in the Association;

H. To promulgate or enforce rules, regulations, by-laws, covenants, restrictions or agreements to effectuate all of the purposes for which the Association is organized;

I. To have and to exercise any and all powers, rights and privileges which a non-profit corporation organized under the laws of the State of Florida may now or hereafter have or exercise;

J. To contract for management of the Association and to delegate in such contract all or any part of the delegable powers and duties of the Association, and to contract for services to be provided to the Owners, including cable television service. All Members of the Association shall be bound by such contracts regardless of whether they desire or use the services rendered thereunder.

K. To sue and be sued and appear and defend in all actions and proceedings in its corporate name to the same extent as a natural person;

L. All powers and duties of a not-for-profit corporation under Chapter 617, Florida Statutes.

ARTICLE V

MEMBERSHIP AND QUORUM

A. Every Owner of a Lot within the Property subject to the Declaration shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

B. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, equal to thirty percent (30%) of the total voting interests of the Association shall constitute a quorum for any action.

ARTICLE VI
VOTING RIGHTS

A. There shall be one Membership Interest in the Association appurtenant to each Lot. Initially, Declarant shall be entitled to all Membership Interests in the Association. The Membership Interest appurtenant to each Lot shall automatically pass upon recordation in the public records of each instrument effectuating a sale, conveyance or transfer of said Lot.

B. The Association shall have two (2) classes of membership:

Class A. Class A Members shall be all Owners of Lots (except the Declarant) and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall have a Membership Interest in the Association. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant. The Declarant shall be entitled to one (1) vote for each Membership Interest held by it in the Association; provided, however, that until three (3) months after ninety percent (90%) of the Lots have been conveyed to Owners other than Declarant, Declarant shall at all times be entitled to no less than the number of votes equal to the maximum number of votes for all other classes plus one, so that the Declarant shall at all referenced times have a majority of votes.

ARTICLE VII
BOARD OF DIRECTORS

A. The affairs of the Association shall be managed by a Board of at least three (3) Directors. Initially, the Declarant shall have the right to appoint all of the Directors until such time as Class A Members hold fifty percent (50%) or more of the Membership Interests, at which time the Class A Members shall be entitled to elect one (1) Director and the Declarant shall be entitled to elect two (2) Directors.

B. Within sixty (60) days after the Class A Members are entitled to elect a Director, the Association shall call, and give not less than thirty (30) days' nor more than forty (40) days' notice of, a meeting of the Class A Members for this purpose. Such meeting may be called and a notice given by any Class A Member if the Association fails to do so.

C. The Declarant shall be entitled to appoint two (2) Directors until three (3) months after ninety percent (90%) of the Lots have been conveyed to Owners other than Declarant.

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D. The Declarant shall be entitled to appoint one (1) Director as long as Declarant is the holder of at least five percent (5%) or more of the Membership Interests in the Association, after which time all Directors shall be selected by the Class A Members.

E. Any Director appointed by the Declarant shall serve at the pleasure of the Declarant, and may be removed and substituted by Declarant, at its sole option and discretion.

F. At such time as the Class A Members of the Association are permitted to elect Directors, any Director elected by the Class A Members, may be removed from the Board with or without cause, by a two-thirds (2/3) vote of the Class A Members of the Association entitled to vote. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Directors and shall serve the unexpired term of his predecessor.

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

<u>NAME</u>	<u>ADDRESS</u>
Scott Anders ^E yn	9311 College Parkway, Suite 1 Fort Myers, Florida 33919
Nancy Thornell	9311 College Parkway, Suite 1 Fort Myers, Florida 33919
Michelle Pearson	9311 College Parkway, Suite 1 Fort Myers, Florida 33919

H. The number of Directors may be increased or decreased from time to time as provided in the By-Laws, but shall never be less than three (3) in number.

I. The Directors shall serve for a term of one (1) year. Any Director may be re-elected for successive terms.

J. The provisions of this Article VII shall control over the provisions of Article VI.

ARTICLE VIII

DURATION

The Association shall have perpetual existence. In the event the Association is dissolved, the surface water management system shall be conveyed to an appropriate agency of local government. If it is not accepted, then the surface water management system must be dedicated to a similar non-profit corporation.

ARTICLE IX
AMENDMENTS

A. Proposals for amendments to these Articles of Incorporation which do not conflict with the Declaration may be made by a majority vote of the Board of Directors or by fifteen (15%) percent of the Members. Such proposals shall be in writing and shall be delivered to the President of the Association who shall thereupon call a special meeting of the Members not less than ten (10) days nor more than sixty (60) days following his receipt of the proposed amendment. Should the President fail to call such special meeting, the Members may, in lieu thereof, call a special meeting. Such request shall state the purpose or purposes of the proposed amendment(s). Notice of such special meeting shall be given and posted in the manner provided in the By-laws. An affirmative vote of two-thirds (2/3) of all Membership Interests (not just those voting) shall be required for approval of the proposed amendment or amendments.

B. Any Member may waive the requirements of this Article as to the notice of special meetings to vote on proposed amendments to these Articles of Incorporation, either before, at or after a membership meeting at which a vote is taken to amend these Articles, and any amendment passed by two-thirds (2/3) of the Membership Interests shall not be invalid merely because some Members did not receive notice of the special meeting.

ARTICLE X
SUBSCRIBERS

The names and street addresses of the Subscribers to these Articles of Incorporation are the same as the Directors listed in ARTICLE VII hereof.

ARTICLE XI
OFFICERS

A. The Board of Directors shall elect the President, Secretary, Treasurer, and as many Vice President, Assistant Secretaries and Assistant Treasurers as the Board of Directors shall from time to time determine.

B. The names and addresses of the Officers who shall serve until their successors are designated by the Board of Directors are as follows:

President: Scott Anders^En

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Secretary: Michelle Pearson

Treasurer: Nancy Thornell

ARTICLE XII

BY-LAWS

A. The By-laws of this Association shall be adopted by the Board of Directors and attached to the Declaration to be filed among the Public Records of Lee County, Florida. The By-laws may be amended by the Members in the manner provided in said By-laws.

B. No amendment to the By-laws shall be passed without the consent or joinder of the Declarant so long as Declarant holds a Membership Interest in the Association.

C. No amendment to the By-laws shall be passed which would operate to impair or prejudice the rights or liabilities of any Mortgagee holding a lien upon a Lot or Unit.

D. No By-law shall be revised or amended by reference to its title or number only. Proposals to amend existing By-laws shall contain the full text of the By-laws to be amended; new words shall be inserted in the text underlined, and the words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Bylaw. See By-law _____ for present text". Nonmaterial errors or omissions in the By-law process shall not invalidate an otherwise properly promulgated amendment.

ARTICLE XIII

INDEMNIFICATION OF OFFICERS AND DIRECTORS

The Association shall and does hereby agree to indemnify, defend and hold harmless every Director and every Officer, their heirs, personal representatives, executors and administrators, against all loss, cost and expenses reasonably incurred in connection with any action, suit or proceeding to which he may be made a party by reason of his being or having been a Director or Officer of the Association, including reasonable counsel fees, except as to

matters wherein he shall be finally adjudged in such action, suit or proceeding to be liable for or guilty of gross negligence or willful misconduct. The foregoing rights shall be in addition to, and not exclusive of, all other indemnification rights to which such Director or Officer may be entitled, by law or otherwise.

IN WITNESS WHEREOF, for the purpose of forming this Association under the Laws of the State of Florida, we the undersigned, constituting the incorporators of this Association, have executed these Articles of Incorporation this 8 day of September 1998.

Signed, Sealed and Delivered
in the Presence of:

Jim Rathjens

Jamie Pussoman

Gene Spers.

Teresa M. Hayward

Dennis C. Reese

Pauline B. Duffner

Scott C. Andersen
Print Name: SCOTT C. ANDERSEN

(Date of Execution: 9/4, 1998)

Michelle A. Pearson
Print Name: Michelle A. Pearson

(Date of Execution: 9-4, 1998)

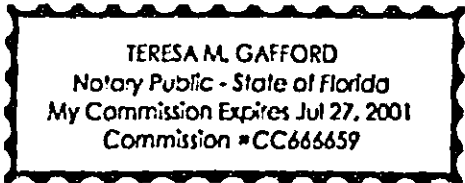
Nancy K. Titzen
Print Name: NANCY K. TITZEN

(Date of Execution: 9/8, 1998)

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STATE OF FLORIDA)
)SS:
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 4th day of September 1998 by Scott Andersen, who is personally known to me or produced _____ as identification.

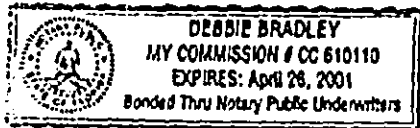


Teresa M Gafford
Notary Public, State of Florida
Print Name:
My commission expires:

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STATE OF FLORIDA)
)SS:
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 4 day of Sept, 1998 by Michelle Pearson, who is personally known to me or produced _____ as identification.

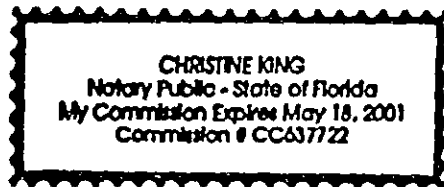


Debbie Bradley
Notary Public, State of Florida
Print Name:
My commission expires:

STATE OF FLORIDA)
)SS:
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 8 day of Sept., 1998 by Nancy Thorneil, who is personally known to me or produced _____ as identification.

Christine King
Notary Public, State of Florida
Print Name: CHRISTINE KING
My commission expires: 5-18-01



CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR THE SERVICE OF PROCESS WITHIN FLORIDA, NAMING AGENT UPON WHOM PROCESS MAY BE SERVED

In compliance with section 48.091, Florida Statutes, the following is submitted:

Wellington Homeowners Association of Lee County, Inc., desiring to organize or qualify under the laws of the State of Florida with its principal place of business at Lee County, State of Florida, has named:

GREGG S. TRUXTON, ESQ.
at 2121 Ponce de Leon Blvd.
Suite 600
Coral Gables, Florida 33134

as its agent to accept service of process within Florida.

SIGNATURE: Scott C. Andersen
SCOTT C. ANDERSEN President

DATE: 9/3/98

HAVING BEEN NAMED TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE STATED CORPORATION, AT THE PLACE DESIGNATED IN THIS CERTIFICATE, I HEREBY AGREE TO ACT IN THIS CAPACITY, AND I FURTHER AGREE TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATIVE TO THE PROPER AND COMPLETE PERFORMANCE OF MY DUTIES.

Gregg S. Truxton
GREGG S. TRUXTON

DATE: 9/11/98

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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EXHIBIT "C"

TO

DECLARATION OF COVENANTS, RESTRICTIONS
EASEMENTS, CHARGES AND LIENS

BY-LAWS OF

WELLINGTON HOMEOWNERS ASSOCIATION OF LEE COUNTY, INC.

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**BY-LAWS
OF
WELLINGTON HOMEOWNERS ASSOCIATION OF LEE COUNTY, INC.**

ARTICLE I.

GENERAL

Section 1. Name. The name of the corporation shall be WELLINGTON HOMEOWNERS ASSOCIATION OF LEE COUNTY, INC., ("Association").

Section 2. Principal Office. The principal office of the Association shall be at 9311 College Parkway, Suite 1, Ft. Myers Florida 33919 or at such location as may be designated by the Association's Board of Directors. All books and records of the Association shall be kept at its principal office.

Section 3. Definitions. As used herein, the term corporation shall be synonymous with "Association" as defined in the Declaration of Covenants, Restrictions, Easements, Charges and Liens (the "Declaration") of be Wellington Homeowners Association of Lee County, Inc., and, unless otherwise specified herein, all terms used herein shall be defined as set forth in the Declaration.

ARTICLE II.

DIRECTORS

Section 1. First Board of Directors.

A. The first Board of Directors shall be composed of three (3) Directors. The Declarant shall have the right to appoint all of the members of the Board of Directors until such time as Class A Members hold fifty percent (50%) or more of the Membership Interests, at which time the Class A Members shall be entitled to elect one (1) member of the Board of Directors and the Declarant shall be entitled to elect two (2) members of the Board of Directors.

B. Within sixty (60) days after the Class A Members are entitled to elect a member of the Board of Directors the Association shall call, and give not less than thirty (30) days nor more than forty (40) days notice of, a meeting of the Class A Members for this purpose. Such meeting may be called and a notice given by any Class A Member if the Association fails to do so.

C. The Declarant shall be entitled to appoint two (2) Directors until three (3) months after ninety percent (90%) of the Lots have been conveyed to Owners other than the Declarant.

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D. Declarant shall be entitled to appoint one (1) Director, as long as Declarant is the holder of at least five percent (5%) or more of the Membership Interests in the Association, after which time all Directors shall be selected by the Class A Members.

E. Any Director appointed by the Declarant shall serve at the pleasure of the Declarant, and may be removed and substituted by Declarant, at its sole option and discretion.

F. At such time as the Class A Members of the Association are permitted to elect Directors, any Director elected by the Class A Members, may be removed from the Board with or without cause, by a two-thirds (2/3) vote of the Class A Members of the Association entitled to vote. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Directors and shall serve the unexpired term of his predecessor.

Section 2. Number and Term. After such time as the Declarant is no longer entitled to elect any Directors to the Board of Directors the Board shall be composed of at least three (3) Directors and the number of directors for each year shall be the same as the number in the prior year unless the number has been increased or decreased by a vote of a majority of all members of the Association. Each director shall be elected to serve for a term of one (1) year or until his successor shall be elected and shall qualify.

Section 3. Vacancy and Replacement. If the office of any Director becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining Directors, though less than a quorum, at a special meeting of Directors duly called for this purpose, shall choose a successor or successors who shall hold office for the unexpired portion of the term of the vacated office. Notwithstanding the foregoing, any Director appointed by the Declarant may be replaced solely by the Declarant.

Section 4. Removal. Any member of the Board of Directors (other than those appointed by the Declarant) may be recalled and removed from office with or without cause by the vote or agreement in writing of persons owning a majority of the Membership Interests. A special meeting of the Owners to recall a member or members of the Board of Directors may be called by ten percent (10%) of the Owners giving notice of the meeting as required to for a meeting of Owners and the notice shall state the purpose of the meeting. All Directors, except for those appointed by the Declarant, shall be Members of the Association and no Director shall continue to serve on the Board if, during his term of office, his membership in the Association shall be terminated for any reason whatsoever. If any Director fails to pay any Assessment levied by the Board of Directors whether regular or special Assessment, within thirty (30) days after its due date, he shall automatically be removed as a Director and the remaining Directors shall select a successor to serve the unexpired portion of the term of said removed Director. The provisions of this Section shall not be applicable to Directors appointed by the Declarant. Declarant appointed

Directors shall be removable with or without cause at the sole discretion of the Declarant.

Section 5. Powers. The property and business of the Association shall be managed by the Board of Directors, which may exercise all corporate powers not specifically prohibited by statute, the Articles of Incorporation or the Declaration. The powers of the Board of Directors shall specifically include, but not be limited to, the following:

- A. To levy and collect regular and special Assessments.
- B. To use and expend the Assessments collected to maintain, care for and preserve the Property, except those portions thereof which are required to be maintained, cared for and preserved by the Owners.
- C. To purchase the necessary equipment required in the maintenance, care and preservation referred to above.
- D. To collect delinquent Assessments by suit or otherwise, together with interest at the rate provided in the Declaration and all costs so incurred including but not limited to attorneys' fees, to abate nuisances and to enjoin or seek damages from the Owners for violations of these By-Laws, the Articles of Incorporation, the Declaration, and the Rules and Regulations promulgated by the Board of Directors.
- E. To employ and compensate such personnel as may be required for the maintenance and preservation of the Property.
- F. Adopt and publish rules and regulations governing the use of the Common Areas and facilities, and the personal conduct of the Members and their guests thereon, and to establish procedures for the imposition of penalties, including fines for the infraction thereof;
- G. Suspend the right of use of the Common Area of a Member and such Member's family, guests and tenants, during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and opportunity for hearing, for a period not to exceed sixty (60) days for each infraction of published rules and regulations;
- H. To contract for management of the Property and to delegate to such other party all powers and duties of the Association except those specifically required by the Declaration to have the specific approval of the Board of Directors or membership and to contract for service to be provided to the Owners, including cable television service.
- I. To carry out the obligations of the Association under any easements, restrictions or covenants running with the land that are intended to provide

enjoyment, recreation or other use or benefit to the Owners.

Section 6. Compensation. Neither Directors nor officers shall receive compensation for their services as such.

Section 7. Meetings.

A. The first and annual meeting of each Board of Directors newly elected by the Members shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum shall then be present, or as soon thereafter as may be practicable.

B. Special meetings shall be held whenever called by the President or a majority of the Board. The Secretary shall give notice of each special meeting either personally or by mail or telegram, at least three (3) days before the date of such meeting.

C. Meetings of the Board of Directors shall be open to all Members except for meetings between 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. Except in cases of emergency, notices of such meetings shall be posted conspicuously on the Property at least forty-eight (48) hours in advance of such meetings. Notices for meetings of the Board of Directors at which assessments will be levied shall state that assessments will be considered and describe the nature of the assessments.

D. A majority of the Board shall be necessary at all meetings to constitute a quorum for the transaction of business and the act of a majority present at any meeting at which there is a quorum shall be the act of the Board. If a quorum shall not be present at the meeting, the Directors then present may adjourn the meeting until a quorum shall be present. A member of the Board may join by written concurrence in any specific action taken at a meeting of the Board but such concurrence may not be used for the purposes of creating a quorum.

Section 8. Order of Business. The order of business at all meetings of the Board shall be as follows:

- A. Roll call.
- B. Reading of minutes of the last meeting.
- C. Consideration of communications.
- D. Resignations and elections.
- E. Reports of officers and employees.

- F. Reports of committees.
- G. Unfinished business.
- H. Original resolutions and new business.
- I. Adjournment.

Section 9. Accounting Records. The Association shall maintain accounting records according to good accounting practices, consistently applied, which shall be open to inspection by all Members or their authorized representatives at a reasonable time. Financial Statements of the Association shall be prepared within sixty (60) days after the close of the fiscal year, and shall be supplied at least annually to all Members or their authorized representatives at no charge to the Members. Such records shall include, but are not limited to, a record of all receipts and expenditures, the beginning and ending cash balances, and an account for each Owner which shall designate the name and address of the Owner, the amount of each Assessment, the due dates and amounts of the Assessments, the amounts paid upon the account and the balance due.

ARTICLE III.

OFFICERS

Section 1. Executive Officers. The executive officers of the Association shall be a President, Vice-President, Treasurer and Secretary, all of whom shall be elected annually by the Board of Directors. Any two (2) of said offices may be united in one (1) person, except that the President shall not also be the Secretary or an Assistant Secretary of the Association. The President, Secretary and Treasurer of the Association must, at all times after Class A Members are entitled to elect a majority of the Board, be Resident Owners. (The term "Resident Owner" shall, for this purpose, mean an Owner who personally occupies his Unit for a minimum of 183 days of the calendar year or whose parent, spouse or child occupies the Unit for said period of time.) If the Board so determines, there may be one or more Vice-Presidents.

Section 2. Subordinate Officers. The Board of Directors may appoint such other officers and agents as it may deem necessary, who shall hold office at the pleasure of the Board of Directors and who shall have such authority and perform such duties as from time to time may be prescribed by said Board.

Section 3. Tenure of Officers; Removal. All officers and agents shall be subject to removal, with or without cause, at any time by action of the Board of Directors. In the event that any officer fails to pay any Assessment levied by the Board of Directors, whether regular or special Assessment, within thirty (30) days of its due date, said officer shall automatically be removed from office and the Board of Directors shall appoint a successor.

Section 4. The President.

A. The President shall be chairman of, and shall preside at, all meetings of the Members and Directors, shall have general and active management authority over the business of the Association except that which is delegated, shall see that all orders and resolutions of the Board are carried into effect, and shall execute bonds, mortgages and other contracts requiring a seal of the Association. The seal, when affixed, shall be attested by the signature of the Secretary.

B. He shall supervise and direct all other officers of the Association and shall see that their duties are performed properly.

C. He shall submit a report of the operations of the Association for the fiscal year to the Directors (whenever called for by them) and to the Members at their annual meeting, and from time to time shall report to the Board all matters within his knowledge which the best interests of the Association may require be brought to its notice.

D. He shall have the general powers and duties of supervision and management usually vested in the office of the President of a corporation.

Section 5. The Vice-President. The Vice-President shall be vested with all the powers and be required to perform all the duties of the President in his absence, together with such other duties as may be prescribed by the Board of Directors or the President.

Section 6. The Secretary.

A. The Secretary shall keep the minutes of meetings of the Members and of the Board of Directors in one (1) or more books provided for that purpose. The minute book shall be available for inspection at any reasonable time, by all Members, or their authorized representatives, and by the Board of Directors. The minutes shall be retained for a period of not less than seven (7) years.

B. He shall see that all notices are duly given in accordance with the provisions of these By-Laws or as otherwise required by law.

C. He shall be the custodian of the corporate records and of the seal of the Association and shall see that the seal of the Association is affixed to all documents, the execution of which, on behalf of the Association, under its seal, is duly authorized in accordance with the provisions of these By-Laws.

D. He shall keep a register of the post office address of each Member, which shall be furnished to the Secretary by such Member.

E. In general, he shall perform all duties incident to the office of the Secretary and other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 7. The Treasurer.

A. The Treasurer shall cause the Association to keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit 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.

B. He shall disburse the funds of the Association as authorized by the Board, taking proper vouchers for such disbursement, and shall render to the President and Directors, at the regular meeting of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Association.

C. He may be required to give the Association a bond in a sum and with one (1) or more sureties satisfactory to the Board for the faithful performance of the duties of his office and the restoration to the Association, in case of his death, resignation or removal from office, of all books, papers, vouchers, money or other property of whatever kind in his possession belonging to the Association. If such bond should be required, the Association shall pay the premium thereon.

D. He shall prepare and deliver annual financial statements and, at such times as may be required by law or otherwise determined by the Board of Directors, shall arrange for audits or reviews of the Association's books by outside accountants.

Section 8. Vacancies. If the office of the President, Vice-President, Secretary, Treasurer or any other office established by the Board of Directors becomes vacant by reason of death, resignation, disqualification or otherwise, the Directors, by a majority vote of the Board of Directors, may choose a successor or successors who shall hold office for the unexpired portion of the term of the vacated office.

Section 9. Resignations. Any Director or officer may resign his office at any time, in writing, which resignation shall take effect from time of its receipt by the Association, unless some later time be fixed in the resignation, and then from that date. The acceptance of a resignation shall not be required to make it effective.

Section 10. Committees. The Board may appoint one or more executive or other committees whose duties and responsibilities shall be determined from time to time by the Board.

ARTICLE IV.

MEMBERSHIP

Section 1. Membership. Each Owner (including a corporate owner) of a Lot within the Property shall be a Member of the Association and membership in the Association shall be limited to Owners of Lots within the Property.

Section 2. Transfer of Membership and Ownership. Membership in the Association may be transferred only as an incident to the transfer of the transferor's Lot.

Section 3. Powers and Duties. The powers and duties of the Association shall include those set forth in the various provisions of the Declaration, the Articles of Incorporation and these By-Laws.

ARTICLE V.

MEETINGS OF MEMBERSHIP

Section 1. Place. All meetings of the Association membership shall be held at such place as may be stated in the notice of the meeting.

Section 2. Annual Meeting.

A. The first annual meeting of Members shall be held during the first two weeks in November of each year following the issuance of the first certificate of occupancy for a Unit within the Property.

B. Regular annual meetings subsequent to the first meeting shall be held during the first two weeks of every November.

C. At the annual meetings, subject to the provisions of Article II, Section 1. of these By-Laws, the Class A Members, by majority vote (cumulative voting prohibited), shall elect a Board of Directors and transact such other business as may properly come before the meeting.

D. Written notice of the annual meeting shall be personally served upon or mailed to each Member entitled to vote at such address as appears on the books of the Association, at least fourteen (14) days prior to the meeting. A duly executed and acknowledged affidavit of an officer of the Association affirming that notices of the meeting were mailed or hand delivered, in accordance with this paragraph, shall be proof of such mailing, and shall be retained as part of the official records of the Association. A notice of such meeting shall be posted at a conspicuous place on the Property at least

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fourteen (14) days prior to the meeting.

Section 3. Membership List. At least fourteen (14) days before every election of Directors, a complete list of Members entitled to vote at said election, arranged numerically by Units, with the mailing address of each Member, shall be prepared by the Secretary. Such list shall be produced and kept for said fourteen (14) days and throughout the election at the office of the Association and shall be open to examination by any Member throughout such time.

Section 4. Special Meetings.

A. Special meetings of the Members, for any purpose or purposes, unless otherwise prescribed by statute or by the Articles of Incorporation, may be called by the President, and shall be called by the President or Secretary at the request, in writing, of ten percent (10%) of the Members. Should the President fail to call such a special meeting, such Members may, in lieu thereof, call such meeting. Such request shall state the purpose or purposes of the proposed meeting.

B. Written notice of a special meeting of Members stating the time, place and object thereof shall be served upon or mailed to each Member entitled to vote thereon at such address as appears on the books of the Association at least five (5) days before such meeting. A notice of such meeting shall be posted at a conspicuous place on the Property at least five (5) days prior to the meeting.

C. Business transacted at all special meetings shall be confined to the objects stated in the notice thereof.

D. When a quorum is present at any special meeting, two-thirds (2/3) of the votes cast in person or represented by written proxy or a majority of all members, whichever is less, shall decide any question properly brought before the meeting.

Section 5. Quorum. Members owning thirty percent (30%) of the Membership Interests entitled to vote, present in person or represented by written proxy, shall be requisite to and shall constitute a quorum at all meetings of the Members for the transaction of business, except as otherwise provided by statute, the Articles of Incorporation or these ByLaws. If, however, such quorum shall not be present or represented at any meeting of the Members, the Members entitled to vote thereat, present in person or represented by written proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting originally called.

Section 6. Vote Required to Transact Business. When a quorum is present at any meeting, a majority of the votes cast, in person or represented by written proxy, shall decide any

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question properly brought before the meeting, unless the question is one which, by express provision of the Florida Statutes, the Declaration, the Articles of Incorporation or these By-Laws, requires a different vote, in which case such express provision shall govern and control the decision of such question.

Section 7. Right to Vote.

A. The Owner or Owners of a Lot shall be entitled to one (1) vote for each Lot owned.

B. If a Lot is owned by more than one (1) individual or by a corporation or other entity, said Owners, corporation or other entity shall file a certificate with the Secretary naming the person or persons authorized to cast said Lot vote any one of whom may vote at any meeting on behalf of the Lot. If the same is not on file prior to any meeting of the Members, then any one individual or any authorized officer may cast said Lot vote. Notwithstanding the above, if: (1) no certificate of designation is on file, and all Owners of a Lot are present, either in person or by proxy, and cast their votes unanimously; or (2) all those designated in the certificate to vote on behalf of the Lot are present, either in person or by proxy, and cast their votes, unanimously, then said votes shall be counted and considered as one vote for each Lot so owned.

C. All proxies must be in writing, signed by the voting Member granting the proxy and filed with the Secretary prior to the meeting, annual or special, for which said proxy is granted. Each proxy shall specifically set forth the name of the person voting by proxy and the name of the person authorized to vote the proxy for him. Each proxy shall contain the date, time and place of the meeting for which the proxy is given, and if a limited proxy, set forth those items which the holder of the proxy may vote, and the manner in which the vote is cast. The proxy shall be valid only for such meeting or meetings subsequently held pursuant to an adjournment of that meeting. Proxies may be given only to a voting Member.

Section 8. Waiver and Consent.

Whenever the vote of Members at a meeting is required or permitted by any provision of the Florida Statutes, the Declaration, the Articles of Incorporation or these By-Laws in connection with any action of the Association, the meeting and vote of Members may be dispensed with if all Members who would have been entitled to vote upon the action of such meeting if such meeting were held shall consent in writing to such action being taken.

Section 9. Order of Business.

The order of business at annual Members' meetings and, as far as practical, at other Members' meetings will be:

- A. Roll call.
- B. Proof of notice of meeting or waiver of notice.
- C. Reading of minutes of prior meeting.
- D. Officers' reports.
- E. Committee reports.
- F. Elections.
- G. Unfinished business.
- H. New business.
- I. Adjournment.

ARTICLE VI.

NOTICES

Section 1. Definition. Whenever, under the provisions of the Florida Statutes, the Declaration, the Articles of Incorporation or these By-Laws, notice is required to be given to any Director, officer or Member, it shall not be construed to mean only personal notice, but such notice may be given in writing by mail by depositing the same in a post office or letter box in a postpaid, sealed envelope, addressed as appears on the books of the Association. Any such notice and any notice of any meeting of the Members, annual or special, need not be sent by certified mail, except as otherwise provided by statute, the Articles of Incorporation, these By-Laws or the Declaration.

Section 2. Service of Notice - Waiver. Whenever any notice is required to be given under the provisions of the Florida Statutes, the Declaration, the Articles of Incorporation or these By-Laws, a waiver thereof, in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof. A waiver shall not dispense with or lessen the number of members required for a quorum.

Section 3. Address. The address for notice to the Association is 9311 College Parkway, Suite 1, Ft. Myers, Florida 33919.

ARTICLE VII.

FINANCES

Section 1. Fiscal Year. The fiscal year shall be the calendar year.

Section 2. Checks. All checks or demands for money and notes of the Association shall be signed by any two (2) of the following officers: President, Vice-President, Secretary or Treasurer, or by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

Section 3. Determination of Assessments.

A. (1) The Board of Directors shall fix Assessments adequate to meet the common expenses of the Association. Common Expenses of the Association shall include expenses for the operation, maintenance, repair or replacement of the Common Areas, costs of carrying out the powers and duties of the Association, all insurance premiums and expenses relating thereto, including fire insurance, and any other expenses for promoting the recreation, safety and welfare of the Owners or otherwise designated as common expenses by the Declaration or from time to time by the Board of Directors.

(2) Funds for the payment of common expenses shall be assessed against Owners in the proportions or percentages and in the manner provided in the Declaration and said Assessments shall be payable as provided in the Declaration.

(3) The Board of Directors is specifically empowered, on behalf of the Association, to make and collect Assessments and to maintain, repair and replace the Common Areas within the Property.

(4) Special Assessments, which may be required by the Board of Directors, shall be levied and paid in the same manner as provided for regular Assessments.

B. When the Board of Directors has determined the amount of any Assessment, excluding the monthly assessment, the Secretary or Treasurer shall mail or present a statement of the Assessment to each of the Owners. All Assessments shall be payable to the Association and, upon request, the Secretary or Treasurer shall give a receipt for each payment made.

Section 4. Annual Budget.

A. A copy of the Association's proposed annual budget of common expenses shall be mailed to each Owner not less than thirty (30) days prior to the meeting of the Board of Directors at which the budget will be considered together with a notice of that meeting. Such meeting of the Board of Directors shall be open to all Owners.

B. The Board of Directors may approve annual budgets without the necessity of Unit Owner approval so long as the amount does not exceed one hundred fifteen percent (115%) of the Assessment for the preceding year.

C. If the Board of Directors adopts a budget which requires assessments for the proposed fiscal year exceeding one hundred fifteen percent (115%) of such Assessments for the preceding year, the Board of Directors, upon written application of ten percent (10%) of the Owners to the Board of Directors, shall call a special meeting of the Owners within thirty (30) days, upon not less than ten (10) days' written notice to each Owner. At the special meeting, Owners shall consider and enact a budget, the adoption of which shall require a vote of not less than a majority vote of all Owners. The Board of Directors may propose a budget to the Owners at a meeting of Members or in writing, and if the budget or proposed budget is approved by the Owners at the meeting or by a majority of all Owners in writing, the budget shall be adopted. In determining whether assessments exceed one hundred fifteen percent (115%) of similar assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the Property, anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis, or assessments for betterments to the Property shall be excluded from the computation. However, as long as the Declarant is in control of the Board of Directors, the Board of Directors shall not impose an assessment for any year greater than one hundred fifteen percent (115%) of the prior fiscal or calendar year's Assessment without approval of persons owning a majority of all Lots.

Section 5. Working Capital and Reserve Accounts.

A. The Board of Directors may from time to time establish, as part of the regular assessment or by special assessment, an operating capital fund which may be utilized for payment of common expenses of the Association in excess of the assessments collected from Owners on a monthly basis.

B. The Board of Directors may establish, as part of the annual budget, reserve accounts for capital expenditures and deferred maintenance for items including but not limited to, pavement resurfacing. The amount to be reserved shall be computed by means of a formula which is based upon estimated life and estimated replacement cost of each reserve item. However, the members of the Association may by a majority vote at a duly

called meeting of the Association, elect for a fiscal year to provide no reserves or reserves less adequate than required by the above-stated formula.

C. The Board of Directors shall have the right to assess Owners to establish a reserve account for the future replacement of or additions to the Common Area and such reserve fund shall be held in trust by the Board or its designated nominee to be used solely for the purpose for which it was established.

Section 6. Limitation on Expenditures. After the election by Class A Members of a majority of the Board of Directors any single item of expenditure for the improvement of the Common Areas exceeding Twenty Five Thousand Dollars (\$25,000.00) shall require the specific approval of a majority of the Class A Members whether or not adoption of the entire budget requires their approval pursuant to Section 4 of this Article VII.

Section 7. Application of Payments and Commingling of Funds. All sums collected by the Association from assessments may be commingled in a single fund or divided into more than one (1) fund as determined by the Board of Directors. Notwithstanding the foregoing, sums collected for reserves shall be placed in a separate account from other funds of the Association. All assessments shall be applied as provided herein and in the Declaration.

Section 8. Fidelity Bonds for Officers. The Treasurer and all officers who are authorized to sign checks, and all officers and employees of the Association, and any contractor handling or responsible for Association funds shall be bonded in such amount as may be determined by the Board of Directors. The premiums on such bond or bonds shall be paid by the Association. The bond shall be in an amount sufficient to equal the monies an individual handles or over which he has control via a signatory or a bank account or other depository account; however, notwithstanding the foregoing, any management firm retained by the Association, shall determine, in its sole discretion, the amount of the bond and who is to be bonded, if any, among its employees.

ARTICLE VIII.

DEFAULT

Section 1. Delinquent Payment. In the event an Owner does not pay any sum, charge or assessment required to be paid to the Association within ten (10) days from the due date, the Association, acting through its Board of Directors, may enforce its lien for assessments or take such other action to recover the sum, charge or assessment to which it is entitled in accordance with the Declaration and the laws of the State of Florida. Assessments or installments thereof not paid within ten (10) days from the date due shall bear interest from the due date until paid at the rate of eighteen percent (18%) per annum.

Section 2. Violation. In the event of a violation of the provisions of the Declaration, the Articles of Incorporation or By-Laws, which violation is not corrected within ten (10) days after

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notice from the Association to the Owner to correct said violation, the Association may take such action as it may deem appropriate, including the institution of legal action, to correct the violation. In the event such legal action is brought against an Owner and results in a judgment for the plaintiff, the defendant shall pay the plaintiff's reasonable attorneys' fees and court costs.

Section 3. Mortgagees. Upon prior written request of a Mortgagee, said Mortgagee shall be given notice of any monetary default by the Owner and opportunity to cure said default within ten (10) days after notice from the Association to the Mortgagee. Nothing contained in this Article shall be construed to require that the Association furnish notice to any Owner of his failure to pay any Assessment, sum or other charge due to the Association.

Section 4. Consent. Each Owner, for himself, his heirs, successors and assigns, agrees to the foregoing provisions regardless of the harshness of the remedy available to the Association and regardless of the availability of any other equally adequate procedures. It is the intent of all Owners to give to the Association such powers and authority which will enable it to operate on a business-like basis, to collect those monies due and owing to it from Owners, and to preserve each Owner's right to enjoy his Lot or Unit free from unreasonable restraint and nuisance.

ARTICLE IX.

AMENDMENT

These By-Laws may be amended by affirmative vote of two thirds (2/3) of the Members and of the Board of Directors except that no Amendment to these Bylaws shall be effective which would contravene the Declaration or the Articles of Incorporation of the Association.

ARTICLE XI.

CONSTRUCTION

Wherever the masculine singular form of the pronoun is used in these By-Laws, it shall be construed to include the masculine, feminine or neuter, singular or plural, wherever the context so requires. Should any of the provisions of these By-Laws be void or be or become unenforceable at law or in equity, the remaining provisions of this instrument shall nevertheless be and remain in full force and effect. Wherever possible, these By-Laws shall be construed consistently with Florida law, the Declaration and the Articles of Incorporation. However, in the event of any conflict or inconsistency the provisions of Florida law, the Declaration and Articles of Incorporation shall govern and these By-Laws shall be given effect to the extent not inconsistent therewith.

The foregoing were adopted as the By-Laws of WELLINGTON HOMEOWNERS ASSOCIATION OF LEE COUNTY, INC. at the first meeting of its Board of Directors.

EXHIBIT "D"

TO

DECLARATION OF COVENANTS, RESTRICTIONS EASEMENTS,
CHARGES AND LIENS

WELLINGTON HURRICANE PREPAREDNESS PLAN

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WELLINGTON HURRICANE PREPAREDNESS PLAN

Hurricane Preparedness - Wellington, like all of Southwest Florida, is vulnerable to the effects of a hurricane or tropical storm. Storm surge, wind damage, torrential rains and flying debris are some of the hazards associated with a hurricane. Based on information provided by Lee County Emergency Management, the following table describes the flood levels that can be expected in the area:

<u>Category of Hurricane</u>	<u>Sustained Winds (MPH)</u>	<u>Water Level/Surge Height (Feet above Sea Levels) For an Approaching Storm</u>	<u>WaterLevel/Surge Height (Feet Above Sea Level) (For An Exiting Storm)</u>
Tropical Storm	39-74	5.4	Dry
1	74-95	7.0	Dry
2	96-111	12.0	6.1
3	111-130	16.1	10.7
4/5	131-155	22.4	14.2

The Flood Insurance Rate Map (FIRM) shows that the minimum first floor elevations above sea level at Wellington are a 10'. This means that if your first floor is at 10 feet above sea level, you could expect 2 feet of flooding inside the house during a Category 2 hurricane.

The Association shall provide hurricane literature and brochures to the owners of lots at Wellington. This information will be provided to the owners at the time of settlement on each lot. The Association shall coordinate and arrange for any annual seminar to be held at the Community Building. A qualified speaker, such as Lee County Emergency Management staff will speak at the seminar and advise the owners on preparing for a hurricane. Hurricane brochures will also be available at the annual seminar.

Hurricane Evacuation Plan - The Association will select a hurricane coordinator to implement the Hurricane Evacuation Plan. The Association will notify all owners in the event of a hurricane. All owners will be required to provide the Association with their phone numbers. The resident owners will be contacted either by phone or in person and told that a hurricane is threatening. The Association can provide information on hurricane shelters and evacuation routes. It will be up to each resident to decide whether or not to evacuate the premises.

It shall be the responsibility of each owner to secure or arrange to have secured his or her personal property to protect it from hurricane or storm damage. At the request of a lot owner and at his sole expense, the Association may take whatever action the owner desires to have the Association staff take (within reason and if the staff has the time and resources to take such action) to secure his property (including covering windows with plywood, bringing outdoor furniture inside, etc.). However, this does not preclude the Association from taking action without the prior approval of a lot owner who is not present to secure the lot owner's personal property (including loose items on the outside of the

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house, items stored on the lot, etc.), in order to minimize damage to the property of other owners or to the common area buildings and improvements owned by the Association.

The Association shall not be held liable or responsible for action taken (or not taken) that results in storm damage to owners' personal property.

The main concern of the Association will be to prevent damage to homes and the common area buildings and improvements from flying objects stored outside of the dwelling that are not properly secured.

If you decide to evacuate, seek shelter on higher ground. The primary hurricane route to evacuate the area to the airport or to the center of state are:

Exit the project and turn right (north) on Summerlin Road. Travel north and turn right (east) onto Gladiolus Drive. Cross US41 and continue east on Six-Mile Cypress Parkway to Daniels parkway. From Daniels Parkway you can travel to the airport and take a flight out of the area or take I-75 northward to either SR82 (to Immokalee) or to SR80 (to Labelle). CR31 north can also be used to reach central Florida if I-75 is too congested. From the center of the state, depending on the direction of the hurricane, either continue east to Palm Beach or Ft. Lauderdale, or go north to Orlando or beyond.

If any evacuee must seek public shelter, the closest recommended public shelters are the Estero High School and the Gateway Elementary School.

The evacuation route to the Estero High School is to run right (North) onto Summerlin Road, travel north on Summerlin Road and turn right (East) onto Gladiolus Drive. Take Gladiolus Drive and turn right (South) on US41. Travel south on US41 and turn left (East) onto River Ranch Road. The address for Estero High School is 21900 River Ranch Road.

The evacuation route to the gateway Elementary School is to travel to Daniels Parkway as previously discussed. Turn right (East) onto Daniels Road from Six Mile Cypress Parkway. Take Daniels Parkway east and turn left (North) onto Gateway Boulevard. Travel north and turn right (East) onto Griffin Drive to Commerce Lakes Drive. The address for Gateway Elementary School is 13280 Commerce Lakes Drive.

CONSENT OF MORTGAGEE TO DECLARATION
(Wellington)

NationsBank, N.A., hereinafter referred to as "Mortgagee", being the owner and holder of a certain Real Estate Mortgage, Assignment and Security Agreement recorded in Official Records Book 2506, Page 1754, Public Records of Lee County, Florida which was amended and spread to encumber the real property submitted to the foregoing Declaration by that certain Mortgage Spreader Agreement recorded in Official Records Book 2889, at Page 3420, of the Public Records of Lee County, Florida, which Mortgage encumbers the real property and improvements described in the foregoing DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS, CHARGES AND LIENS, does hereby consent to the submission of said real property and improvements thereon to the terms and provisions of the Declaration of Covenants, Restrictions, Easements, Charges and Liens.

THIS CONSENT shall be binding upon Mortgagee, its successors and assigns.

IN WITNESS WHEREOF, Mortgagee, has caused this instrument to be executed in its name and seal affixed on this 3 day of November, 1998.

Signed, Sealed and Delivered
in the Presence of:

MORTGAGEE:

Teresa L. Coblentz
Print Name: Teresa L. Coblentz

NationsBank, N.A.
By: [Signature]
Name: Roberts K. Byrne
Title: Sr. Vice President

Jane Schwanz
Print Name: Jane Schwanz

STATE OF Florida)
COUNTY OF Sarasota)

The foregoing Consent of Mortgagee was acknowledged before me this 3rd day of November, 1998, by Roberts K. Byrne, as Sr. Vice Pres. of NationsBank, N.A. on behalf and upon authorization of said Mortgagee. He/She is personally known to me or has produced _____ as identification.

Teresa L. Coblentz
Notary Public, State of Florida
Print Name: Teresa L. Coblentz

My commission expires:
well.dec



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CHARLIE GREEN, CLERK
LEE COUNTY, FL

**AMENDMENT
TO
DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS, CHARGES AND
LIENS
FOR
WELLINGTON**

Note: Words ~~stricken~~ are deletions; Words underlined are additions.

Amendment No. 2 as Identified on the Consent and Joinder:

ARTICLE XI – PROHIBITED USES

Section 5. Commercial vehicles and commercial trucks, boats, trailers, recreation vehicles, motor homes, motorcycles, golf carts or any other transportable personal property, except as otherwise permitted herein, shall not be parked or stored on any Lot, except in a closed garage. All automobiles and any other vehicles must be fully operational. No repairs (except minor emergencies) shall be made on any portion of the Property. Non-commercial passenger vehicles including automobiles, trucks, vans and Sport Utility Vehicles (SUV's) shall be permitted to be parked in driveways. As used herein the term "commercial" shall mean any vehicle or truck displaying any signage or lettering of a commercial nature, or with racks or framing designed to carry tools, ladders or equipment which is used for commercial or business purposes or any vehicle of whatever nature that is primarily used for commercial purposes. Vendor service vehicles temporarily present on business to perform work and police, sheriff, fire and EMS vehicles "on-call" are permitted. Notwithstanding the foregoing in order to avoid a hardship, that certain white 2001 Ford model F-350 commercial truck VIN number 1FDSX34FOIEC18279 is "grandfathered" and shall be allowed to park in the driveway until such time as it is sold or its owner sells his Lot, which ever occurs first.

(NOTE: Amendments number 1 and number 3 as identified on the Consent and Joinder were not approved by a sufficient number of Members in order to be adopted.)

EXHIBIT "B"