

RETURN TO

PREPARED BY:
LEONARDO J. MAIMAN
RUDEN, BARNETT, McCLOSKEY, SCHUSTER & RUSSELL
POST OFFICE BOX 1900
FORT LAUDERDALE, FLORIDA 33302

DECLARATION OF RESTRICTIVE COVENANTS
FOR
HILLS OF WELLEBY

86464323

THIS DECLARATION OF RESTRICTIVE COVENANTS FOR HILLS OF WELLEBY ("Declaration") is entered into as of this 22nd day of September, 1986 by the corporate entities described in Paragraph 1.9 hereof ("Declarant") and joined by HILLS OF WELLEBY HOMEOWNERS ASSOCIATION, INC., a Florida corporation not for profit.

WHEREAS, Declarant is the owner in fee simple of certain real property, more particularly described on Exhibit A attached hereto ("Subject Property"), and intends to develop thereon a residential community to be known as "Hills of Welleby"; and

WHEREAS, Declarant desires to commit the Subject Property to the provisions of this Declaration; and

WHEREAS, Declarant has caused Hills of Welleby Homeowners Association, Inc., a Florida corporation not for profit ("Homeowners Association"), to be formed, which Homeowners Association has joined in this Declaration and to which there has been and will be delegated and assigned: (i) certain powers and duties of ownership, operation, administration, maintenance and repair of portions of the Subject Property; (ii) the enforcement of the covenants and restrictions contained herein relating to the Subject Property or portions thereof; and (iii) the collection and disbursement of the "Operating Expenses" (as hereinafter defined);

NOW, THEREFORE, in consideration of the premises and covenants herein contained, Declarant hereby declares that the Subject Property shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, provisions, restrictions, easements, reservations, regulations and burdens hereinafter set forth, all of which shall run with the Subject Property, and which shall be binding on all parties having any right, title or interest in the Subject Property and their grantees, successors, heirs and assigns.

1. DEFINITIONS

The following words and phrases when used in this Declaration follow the meaning stated in the "Protective Covenants" (as hereinafter defined) and as follows, unless the context should clearly reflect another meaning:

1.1. "Amendment(s)" means any and all amendments to this Declaration, all of which shall be consecutively numbered beginning with the "First Amendment to the Declaration of Restrictive Covenants for Hills of Welleby" and each of which shall be properly adopted pursuant to the terms of the "Hills of Welleby Documents" (hereinafter defined) including this Declaration, and recorded in the Official Records of the County; provided, however, the failure to so consecutively number such Amendments shall not impair their validity hereunder and such Amendments, to the extent not otherwise numbered, will be deemed to have been numbered, in chronological order of their appearance in the Official Records of the County.

1.2. "Annual Assessment" means a share of funds required for the payment of Operating Expenses which is assessed quarterly by the Homeowners Association against an Owner pursuant to the Declaration.

1.3. "Articles" means the Articles of Incorporation of the Homeowners Association, a copy of which is attached hereto as Exhibit B and made a part hereof.

1.4. "Attorneys' Fees" means all costs, expenses and attorneys' fees including, but not limited to, those incurred at all trial, appellate, and postjudgment proceedings levels and whether or not suit is instituted.

86 DEC 4 PM 3 03

OFF REC 13957 PAGE 645

1329

1.5. "Board" means the Board of Directors of the Homeowners Association.

1.6. "Bylaws" means the Bylaws of the Homeowners Association, a copy of which is attached hereto as Exhibit C and made a part hereof.

1.7. "Common Areas" shall mean and refer to those portions or tracts of land within Hills of Welleby, together with any improvement thereon, including the items described in Paragraph 5 hereinbelow, more particularly described on Exhibits D and E attached hereto and made a part hereof, which are, or are to be, owned and/or maintained by the Homeowners Association pursuant to this Declaration. The term "Homeowners Association Property" shall include any personal property acquired by the Homeowners Association. The Common Areas include such real property as may from time to time become committed to use hereunder as Common Areas.

1.8. "County" means Broward County, Florida.

1.9. "Declarant" means NEWMAR BUILDING CORPORATION, a Florida corporation, BEST REAL ESTATE, INC., a Florida corporation, GEM HOMES CORP., a Florida corporation and THE WILLIAM LYON COMPANY, a California corporation, for so long as any such entity continues to own a portion of the Subject Property, their grantees, successors and assigns. An Owner shall not, solely by the purchase of a Residential Unit, be deemed a successor or assign of Declarant's rights or obligations under the Hills of Welleby Documents unless such Owner is specifically so designated as a successor or assign of such rights or obligations in the respective instrument of conveyance or other instrument in recordable form executed by Declarant. Each entity comprising the Declarant owns certain portions of the Subject Property in fee simple absolute and each such entity has the right to sell and develop such lands independently at such entity's sole discretion without the consent of any other entity comprising the Declarant.

1.10. "Declaration" means this document as amended or supplemented from time to time.

1.11. "Hills of Welleby" means the single-family home, planned community known as "Hills of Welleby" planned for development upon the Subject Property committed to land use under this Declaration.

1.12. "Hills of Welleby Documents" means in the aggregate the Protective Covenants, this Declaration, the Articles and the Bylaws and all of the instruments and documents referred to or incorporated therein or attached thereto as the same may exist from time to time executed in connection with Hills of Welleby.

1.13. "Homeowners Association" means Hills of Welleby Homeowners Association, Inc. The Homeowners Association is a corporate entity and Owners, by their acceptance of a deed conveying property within Hills of Welleby, thereby acknowledge the valid corporate existence of the Homeowners Association and thereby covenant and agree to respect the corporate identity of the Homeowners Association notwithstanding that Declarant may appoint and/or elect a majority of the Board of such corporate entity.

1.14. "Institutional Mortgagee" means: (i) any lending institution having a first mortgage lien upon a Residential Unit including, but not limited to, any of the following institutions: a Federal or State Savings and Loan or Building and Loan Association, bank or real estate investment trust, or mortgage banking company doing business in the State of Florida; or (ii) any "Secondary Mortgage Market Institution" including the Federal National Mortgage Association and Federal Home Loan Mortgage Corporation; or (iii) any and all investing or lending institutions, or the successors and assigns of such lenders (herein referred to as the "Lenders") which have loaned money to Declarant to acquire, or construct improvements upon, any portion of the Subject Property and which hold a mortgage upon any portion of the Subject Property securing such a loan; or (iv) Declarant.

OFF
REC 13957 PAGE 646

1.15. "Interest" means the highest non-usurious rate allowed by law, and if no such rate is prescribed by law, then eighteen percent (18%) per annum.

1.16. "Maintenance" means, but is not limited to, the following in connection with the Common Areas: cleanup, landscape care and replacement, lawn care and other services as related thereto, painting and structural upkeep of any improvements located thereon, sidewalks, paths and rights of way, repair and all other such functions incidental to the services of the Homeowners Association.

1.17. "Notice" to an Owner means the proper placement of a document with postage prepaid in the United States Postal system for delivery by mail to the last known address of the person or entity who appears as Owner of any lot or Residential Unit on the records of the Homeowners Association. It shall be the duty of each Owner to keep the Homeowners Association informed of his current mailing address.

1.18. "Operating Expenses" means the expenses, other than Remedial Maintenance Fees, for which Owners are liable to the Homeowners Association as described in this Declaration and in the Articles and Bylaws, and includes, but is not limited to, the cost and expenses incurred by the Homeowners Association in owning, administering, operating, reconstructing, maintaining, repairing and replacing the Homeowners Association Property and Common Areas from and after the date this Declaration is recorded among the Public Records of the County. The Operating Expenses shall be paid through the "Annual Assessment" as determined pursuant to Section 8 of this Declaration.

1.19. "Owner" means the owner of fee simple title to a Residential Unit located within the Subject Property as shown by the Public Records in the Office of the Clerk of the Circuit Court of the County, whether it be the Declarant, one or more persons, firms, associations, corporations, or other legal entities. An Owner shall not mean nor refer to a holder of a mortgage or security deed, its successors or assigns, unless and until such holder has acquired title pursuant to foreclosure proceedings or by deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner.

1.20. "Plat" means the plat of HILLS OF WELLEBY UNIT FOURTEEN, as recorded in Plat Book 109, Page 41 of the Public Records of the County. The real property depicted and described by the Plat is herein referred to as the "Platted Property."

1.21. "Protective Covenants" means that certain Declaration of Protective Covenants Covering the Development, Use and Enjoyment of Welleby, an Exclusive Residential Community recorded in Official Records Book 13092, at Page 242 of the Public Records of the County.

1.22. "Remedial Maintenance Fee" means those expenses to which "Defaulting Owners" (as hereinafter defined) may be liable pursuant to the provisions of Section 6.2 hereof.

1.23. "Residential Unit" means a platted lot or parcel, and any improvement thereon, located within the Subject Property designated for residential use.

1.24. "Subject Property" means the real property described on Exhibit A attached hereto and made a part hereof and any other lands adjacent to the Subject Property which Declarant may hereafter acquire and submit to the terms of this Declaration. Nothing herein contained shall be deemed to impose the restrictions of this Declaration upon such additional lands until same have been submitted to the terms hereof.

1.25. "Turnover Date" means sixty (60) days after the "Turnover Event" as defined in Article X.D of the Articles.

OFF
REC 13957 PAGE 647

1.26. "Welleby Management Association, Inc." means the association formed for the maintenance and management of the Welleby Community, all as provided in the Protective Covenants.

2. PLAN FOR DEVELOPMENT OF HILLS OF WELLEBY

Declarant is the owner of the Subject Property and intends to construct thereon or upon portions thereof or develop and sell platted lots therein for a planned community of single family homes to be known as Hills of Welleby. The Subject Property is hereby committed and declared to be subject to all of the covenants, restrictions, terms and conditions of this Declaration. Hills of Welleby constitutes a phase of the "Welleby Community" (as defined in the Protective Covenants). As such, each Owner of a Residential Unit shall be a member of the Welleby Management Association, Inc. as described in the Protective Covenants.

3. HOMEOWNERS ASSOCIATION

3.1. Membership

3.1.1. Every Owner shall be a member of the Homeowners Association and, by acceptance of a deed or other instrument evidencing his ownership interest and whether or not stated therein, each Owner accepts his membership in the Homeowners Association, acknowledges the authority of the Homeowners Association as stated in this Declaration and agrees to abide by and be bound by the provisions of the Hills of Welleby Documents. In addition, the family, relatives, guests, licensees, invitees and tenants of the Owners (and the family, relatives, guests, licensees, invitees and subtenants of tenants), shall, while in or on any part of the Subject Property, abide and be bound by the provisions of the Hills of Welleby Documents.

3.1.2. The members shall consist of the Owners. The rights of the members regarding voting, corporate meetings, notices and other Homeowners Association matters shall be as set forth in the Hills of Welleby Documents.

3.1.3. The votes of the members, other than Declarant, who are also members of an Association shall be cast as provided in the Articles.

3.2. Board of Directors

The Homeowners Association shall be governed by the Board of Directors which shall be appointed, designated or elected as set forth in the Articles and Bylaws.

3.3. Services

The Homeowners Association shall perform any of the following services:

3.3.1. Maintenance of all Common Areas and any other areas specifically designated herein or in an Amendment hereto, as the maintenance responsibility of the Homeowners Association.

3.3.2. Maintenance of any improvement or real property located within Hills of Welleby upon which the Homeowners Association has been granted, pursuant to the Plat or in a separate writing, an easement for said maintenance. The functions and services which the Homeowners Association is authorized to carry out or to provide may be added to or reduced at any time upon the affirmative vote of a majority of the Board.

4. LAND USE OF HILLS OF WELLEBY

4.1. Restrictions on Land Use

In order to preserve the values and amenities of The Hills of Welleby, the following provisions shall be applicable to the Subject Property:

OFF 13957 PAGE 648

4.1.1. Residential Use

Only one single-family Residential Unit may be constructed upon any platted lot and no Residential Unit may be used for any trade, business, professional or commercial activity nor shall any other non-residential use be conducted upon any Residential Unit.

4.1.2. Residential Unit Conformity:

No Residential Unit or any addition thereto shall be permitted which is inconsistent in costs, quality, size, materials and appearance with the surrounding Residential Units. The ground floor area of any Residential Unit located upon the Subject Property shall not be less than 1200 square feet exclusive of porches and garages. All front, side and rear yard set-backs shall conform to the municipal zoning requirements in effect at the time of the construction of such Residential Unit.

4.1.3. Trash and Refuse:

Garbage, trash, refuse or waste materials shall not be burned on any portion of the Subject Property or within any Residential Unit. Refuse or refuse containers shall not be stored or placed upon any Residential Unit where they may be visible from the street except for a period of up to twenty four (24) hours immediately preceding the scheduled collection of such refuse. No noxious or offensive odor shall be permitted to emanate from any portion of the Subject Property or any Residential Unit.

4.1.4. Signs:

No sign of any kind shall be displayed to the public view upon any Residential Unit except for one (1) professionally designed and prepared sign of not more than one (1) square foot announcing the name of the occupant and/or the house number of the dwelling and one (1) professionally designed and prepared sign of not more than three (3) square feet indicating that the dwelling is for sale or rent. The foregoing provisions shall not apply to any sign utilized by the Declarant herein or its successors and assigns with respect to any sales efforts of the Subject Property or any portion thereof.

4.1.5. Vehicles:

Except in cases of delivery of materials for the performance of maintenance or repair work, no vehicle may be parked or located at or upon any Residential Unit unless it shall be road-worthy, currently registered with a current license plate and less than twenty two (22) feet in length. No boat may be parked or located at or upon the exterior of any Residential Unit. No unsightly vehicles including, but not limited to spraying rigs, cranes and/or other similar commercial vehicles shall be parked or located at or upon any Residential Unit at any time or times; provided, however, this last stated provision shall not prohibit the parking or locating of commercial "pick-up" trucks or panel trucks upon any Residential Unit.

4.1.6. Animals and Pets:

No animals of any kind shall be permitted upon or within any Residential Unit, except for domestic household pets. No animals may be kept, bred or maintained for commercial purposes and no pets shall constitute an unreasonable nuisance or annoyance to the other Owners.

4.1.7. Clotheslines:

No clotheslines or clothes poles shall be erected, maintained or permitted within the exterior of any Residential Unit and there shall be no outside drying of clothing.

4.1.8. Antennas:

No antennas of any type including, but not limited to, television or radio antennas, which are affixed in any manner to the exterior of any Residential Unit constructed on any platted lot or shall be placed in any manner upon any platted lot without the prior written consent of the Homeowners Association and the "Management Association" (as defined in the Protective Covenants). In the event such approval is granted, at the Homeowners Association's and Management Association's sole discretion, such antennas shall not be higher than ten (10) feet above the ridge of the roof of said Residential Unit.

4.1.9. Nuisances:

No nuisances shall be permitted within the Subject Property and no practice which is an unreasonable source of annoyance to the other Owners or which shall interfere with the peaceful possession and proper use of any portion of the Subject Property by the other Owners or Declarants herein shall be permitted. No offensive or unlawful action shall be permitted and all laws, ordinances and regulations of all control and governmental authorities shall be complied with at all times by each Owner.

4.1.10. Garages:

Garage doors shall be kept closed while the garage is not in use so as to preserve the beauty of the neighborhood.

4.2. Common Areas

4.2.1. Private Use:

For the term of this Declaration, the Common Areas are not for the use and enjoyment of the public, but are expressly reserved for the private use and enjoyment of Declarant, the Homeowners Association, the Owners and their lessees, and the family members, guests and invitees of Owners or their lessees in accordance with this Declaration.

4.2.2. Maintenance:

The administration, management, operation and maintenance of the Common Areas shall be the responsibility of the Homeowners Association. The cost of administering, operating, maintaining, repairing, replacing and reconstructing the Common Areas and improvements to be maintained thereon shall be an Operating Expense as more particularly set forth in Section 7 hereof.

4.2.3. No Abandonment, Partition, Subdivision, Etc.:

The Homeowners Association shall not seek to abandon, partition, subdivide, alienate, release, transfer, hypothecate, mortgage or otherwise encumber the Common Areas. The preceding sentence shall not be applicable to, nor prohibit the Homeowners Association from granting, such easements as are reasonably necessary or appropriate for the development of Hills of Welleby and the use thereof in a manner consistent with the provisions of this Declaration and governmental requirements.

4.2.4. Rules and Regulations:

The Homeowners Association shall have the power and authority from time to time to adopt and enforce reasonable rules and regulations governing the use of the Common Areas.

4.2.5. Declarant's Right of Use:

Notwithstanding anything to the contrary contained in this Declaration and in recognition of the fact that Declarant will have a continuing and substantial interest in the development and administration of

OFF 13957 PAGE 650

Hills of Welleby, the Declarant hereby reserves for itself and its successors and assigns, and the Homeowners Association recognizes, agrees to and acknowledges that the Declarant and its successors and assigns shall have, the right to the use in conjunction with and as part of its program of sale, leasing, constructing and developing of and within Hills of Welleby without any cost to Declarant for such rights and privileges of all of: (i) the Common Areas; and (ii) all other portions of the Subject Property, the title to which has not been conveyed by Declarant. This right of use shall include, but is not limited to, the right to establish and maintain within any improvements erected upon the Subject Property, signage, sales office for the Declarant's use in connection with the offering of lots and/or Residential Units for sale or rent to the public as well as the holding of sales and marketing meetings, sales promotions and related activities. For purposes of this Paragraph 4.2, the term "Declarant" shall include any lender if such lender or its successors or assigns acquires title to any portion of the Subject Property as the result of the foreclosure of any mortgage encumbering the Subject Property securing a loan to Declarant or acquires title thereto by deed in lieu of foreclosure. The rights and privileges of Declarant as herein set forth in this Paragraph 4.2, which are in addition to, and in no way limit any other rights or privileges of Declarant under this Declaration or any of the other Hills of Welleby Documents, shall terminate when Declarant neither owns any portion of the Subject Property or upon such earlier date as Declarant shall notify the Homeowners Association in writing of Declarant's voluntary written election to relinquish the aforesaid rights and privileges of use.

4.2.6. Entranceway:

The entranceway to Hills of Welleby shall be maintained by the Homeowners Association in the original condition established by the Declarant or in such condition as modified or remodeled with the approval of the Declarant.

5. GRANTS OF EASEMENTS

Declarant hereby grants unto the Homeowners Association an easement for the purpose of maintaining and repairing a perimeter wall and entranceway feature and any equipment appurtenant thereto around the Subject Property and for landscaping appurtenant thereto over and across that portion of the Subject Property more particularly described on Exhibit E attached hereto and made a part hereof.

6. MAINTENANCE

In order to further establish and preserve the Hills of Welleby:

6.1. Maintenance

6.1.1. The Owners hereby covenant and agree that they shall, at their own expense, at all times maintain or cause to be maintained in good condition and in a neat and attractive manner, the exterior portions of their respective Residential Units, including, but not limited to roofs, walls, windows, doors, patio areas, pools, screens and awnings. Nothing herein shall, however, be construed to grant an Owner the right to maintain any landscaping located within the Common Areas pursuant to this Declaration; such maintenance obligation is restricted to the Homeowners Association. All open areas and shrubs, trees, lawns and other landscaping shall be kept neatly trimmed and cut. No weeds under brush or other unsightly growth shall be permitted on any Residential Unit. Rather, the Homeowners Association shall be deemed to be fulfilling the obligations of an Owner pursuant to this covenant in conducting such maintenance.

6.1.2. The Homeowners Association covenants and agrees that it shall maintain in good condition and, at its expense, the property required to be administered by it.

OFF 13957 PAGE 651

6.1.3. The maintenance responsibilities of Owners and the Homeowners Association shall be conducted pursuant to and in compliance with the rules and regulations as may be promulgated by the Homeowners Association from time to time. Maintenance of Residential Units by the Owners shall include, but not be limited to, the maintenance, in a neat, aesthetically pleasing and proper condition, of improvements, lawns, shrubbery and landscaping located therein.

6.2. Rights of Declarant and Homeowners Association; Lien Rights

6.2.1. In the event any Owner fails to properly maintain his Residential Unit pursuant to this Declaration ("Defaulting Owner"), the Homeowners Association shall have the right but not the obligation, upon fifteen (15) days' written Notice, to enter the exterior property of the Defaulting Owner for the purpose of performing the maintenance referred to, set forth and described in the Notice. The determination of whether an Owner is failing to properly maintain property for which such Owner has maintenance responsibility shall be determined in the sole discretion of the Homeowners Association or Declarant. The cost of performing such maintenance and the expenses of collection (if any), together referred to herein as the "Remedial Maintenance Fee," including court costs and Attorneys' Fees, shall be assessed against the Defaulting Owner.

6.2.2. Any Remedial Maintenance Fee, including interest thereon, and Attorney Fees as herein provided, are hereby declared to be a charge on each Residential Unit and shall be a continuing lien upon the Residential Unit against which the Remedial Maintenance Fee is assessed as hereafter provided in Section 8. In the event the amounts assessed against a Defaulting Owner are not paid within twenty (20) days of the date of the assessment, the Homeowners Association or Declarant, as the case may be, may proceed to enforce and collect said assessments against such Defaulting Owner in any manner provided for by the laws of the State of Florida, including foreclosure and sale of a Defaulting Owner's Residential Unit. All sums expended shall earn interest. Upon full payment of all sums secured by the lien, the party making payment shall be entitled to a recordable satisfaction of lien.

7. OPERATING EXPENSES PAID BY OWNERS

The following costs and expenses incurred by the Homeowners Association with regard to the ownership, operation, maintenance and/or repair of the Common Areas, the Homeowners Association and any other expenses declared as such pursuant to this Declaration shall be "Operating Expenses," which the Homeowners Association is obligated to collect and pay and the Owners are obligated to pay as set forth in Sections 8 and 9 hereof.

7.1. Taxes

Any and all taxes levied or assessed at any and all times upon the Common Areas or the Homeowners Association by any and all taxing authorities, including all taxes, charges, assessments and impositions and liens for public improvements, special charges and assessments and, in general, all taxes and tax liens which may be assessed against such areas and against any and all personal property and improvements which are now or which hereafter may be placed thereon, including any interest, penalties and other charges which may accrue on such taxes.

7.2. Utility Charges

All charges levied for any utility providing service for the Common Areas whether supplied by a private or public firm, including, without limitation, all charges for water, gas, electricity, telephone, sewer and any other type of utility or any other type of service charge.

7.3. Insurance

The premiums on the policy or policies of any insurance which the Homeowners Association in its sole discretion determines to obtain as beneficial for the protection or preservation of the Common Areas and any improvements now or hereafter located thereon or in the best interest of Hills of Welleby or the Homeowners Association.

7.4. Maintenance, Repair and Replacement

Any and all expenses necessary to maintain, repair, replace, operate and preserve the Common Areas and any improvements located thereon including such expenses as grass cutting, if required, in a manner consistent with the covenants and restrictions contained herein and all orders, ordinances, rulings and regulations of any and all federal, state, county and city governments having jurisdiction thereover, as well as the statutes and laws of the State of Florida and the United States.

7.5. Operational Expenses

The costs of administration for the Homeowners Association, including any secretaries, bookkeepers and other costs necessary to carry out the obligations and covenants of the Homeowners Association under this Declaration, notwithstanding the fact that some of these services may be expended in providing services to or collecting sums owed by Owners of particular Residential Units, shall be Operating Expenses. In addition, the Homeowners Association may retain a managing company or contractors to assist in the maintenance of the Common Areas and to perform or assist in the performance of certain obligations of the Homeowners Association hereunder. The fees or costs of any management company or contractor so retained shall be deemed to be an Operating Expense.

7.6. Indemnification

For good and valuable consideration, the receipt of which is hereby acknowledged, the Homeowners Association covenants and agrees that it will indemnify and hold harmless Declarant from and against any and all claims, suits, actions, causes of action and/or damages arising from any personal injury, loss of life and/or damage to property sustained on or about the Common Areas or easements or other property owned, or to be owned pursuant to the provisions of this Declaration, by the Homeowners Association and improvements thereof and thereon, and from and against all costs, expenses, Attorneys' Fees, expenses and liabilities incurred by Declarant arising from any such claim, the investigation thereof or the defense of any action or proceedings brought thereon, and from and against any orders, judgments and/or decrees which may be entered thereon. The Homeowners Association shall also indemnify Declarant for any expense Declarant may incur in bringing any suit or action for the purpose of enforcing the rights of Declarant under any of the Documents or of compelling the specific enforcement of the terms, conditions and covenants contained in any of the Documents to be kept or performed by the Homeowners Association or the Owners. The costs and expense of fulfilling this covenant of indemnification as set forth in this Paragraph shall be an Operating Expense. Further, the costs to the Homeowners Association of indemnifying its officers and members of the Board as set forth in Article XI of the Articles shall be an Operating Expense.

7.7. Failure or Refusal of Owners to Pay Assessments

Funds needed for Operating Expenses due to the failure or refusal of Owners or Defaulting Owners to pay "Assessments" levied shall, themselves, be deemed to be Operating Expenses and properly the subject of an Assessment.

7.8. Matters of Special Assessments Generally

Extraordinary items of expense under the Hills of Welleby Documents, such as expenses due to casualty losses and other extraordinary circumstances and amounts needed for capital improvements or for other purposes or reasons

REC 13957 PAGE 653

as determined by the Board to be the subject of a special assessment ("Special Assessment") which are not inconsistent with the terms of any of the Hills of Welleby Documents and are approved by the affirmative vote of a majority of the members of the Homeowners Association present at a meeting having a quorum. Notwithstanding anything herein to the contrary, however, approval need not be obtained for: (i) a Special Assessment for the replacement or repair of a previously existing improvement on the Common Areas; or (ii) repair of the Common Areas, if destroyed or damaged.

7.9. Maintenance of Rights-of-Way

In addition to the above-mentioned responsibilities, the Homeowners Association shall also have the right, but not the obligation, to install, maintain and replace landscaping and street lighting along the swale and median areas of rights-of-way (including, but not limited to dedication rights-of-way, if any) within Hills of Welleby and to erect and maintain thereon a guardhouse or guardhouses and to hire security personnel in connection therewith, if determined to be in the best interest of Hills of Welleby. The cost of any personnel, maintenance, repair or operation conducted by the Homeowners Association pursuant to this Section 7.9 shall be an Operating Expense.

7.10. Miscellaneous Expenses

All charges for the costs of all items of expense pertaining to or for the benefit of the Common Areas or the Homeowners Association, if any, or any part thereof not herein specifically enumerated and which are determined to be an Operating Expense by the Board.

8. COVENANT TO PAY ASSESSMENTS; ESTABLISHMENT AND ENFORCEMENT OF LIENS; CERTAIN RIGHTS OF DECLARANT AND INSTITUTIONAL MORTGAGEES

8.1. Owner's Affirmative Covenant to Pay Assessments

In order to: (i) fulfill the terms, provisions, covenants and conditions contained in this Declaration; and (ii) maintain, operate and preserve the Common Areas for the use, safety, welfare and benefit of the Owners and their guests, invitees, lessees and family members in accordance with this Declaration, there is hereby imposed upon each Residential Unit and upon each Owner, the affirmative covenant and obligation to pay to the Homeowners Association (in the manner herein set forth) all "Assessments" which shall include the Annual Assessments, Special Assessments, Remedial Maintenance Fees, and all installments thereof. Each Owner by acceptance of a deed or other instrument of conveyance conveying a Residential Unit, whether or not it shall be so expressed in such deed or instrument, shall be obligated and agrees to pay to the Homeowners Association all Assessments in accordance with the provisions of the Hills of Welleby Documents. No Owner may waive or otherwise escape liability for such Assessments by non-use of the Common Areas or abandonment of his or her right to use the Common Areas.

8.2. Establishment of Continuing Liens on Residential Units

8.2.1. Any and all Assessments with interest thereon and costs of collection thereof, including Attorneys' Fees, are hereby declared to be a charge and continuing lien upon the Residential Unit against which each such Assessment is made.

8.2.2. Each Assessment against a Residential Unit, together with interest thereon and costs of collection thereof, including Attorneys' Fees, shall be the personal obligation of the person, persons or entity owning the Residential Unit assessed.

8.2.3. Said lien shall be effective only from and after the time of recordation amongst the Public Records of the County, of a written, acknowledged statement signed by the President or a Vice-President of the

Homeowners Association or the managing agent as their designated representative setting forth the amount due to the Homeowners Association as of the date the statement is signed and shall be subordinate to any Institutional Mortgage; provided such Institutional Mortgage is recorded prior to the recordation of the Homeowners Association statement described herein. Upon full payment of all sums secured by that lien, the party making payment shall be entitled to a recordable satisfaction of the statement of lien.

8.2.4. Notwithstanding anything to the contrary herein contained, where an Institutional Mortgagee obtains title to a Residential Unit as a result of foreclosure of its mortgage or deed given in lieu of foreclosure, such acquirer of title, its successors or assigns, shall not be liable for the share of Assessments pertaining to such Residential Unit which became due prior to the acquisition of title as a result of the foreclosure or deed in lieu thereof, unless such Assessment is secured by a claim of lien that is recorded prior to the recording of the mortgage which was foreclosed or with respect to which a deed in lieu of foreclosure was given. Such unpaid share of Assessments for which a claim of lien has not been recorded prior to the recording of the mortgage which was foreclosed or with respect to which a deed in lieu of foreclosure was given shall be Operating Expenses collectible from all other Owners.

8.3. Enforcement of Payment of Assessments by the Homeowners Association

In the event any Owner shall fail to pay Assessments or any installment thereof charged to his Residential Unit within fifteen (15) days after the same becomes due ("Delinquent Owner"), then the Homeowners Association, through its Board, shall have any of the following remedies to the extent permitted by law, which remedies are cumulative and which remedies are not in lieu of, but are in addition to, all other remedies available to the Homeowners Association:

8.3.1. To accelerate the entire amount of any Assessments for the remainder of the calendar year, notwithstanding any provisions for the payment thereof in installments;

8.3.2. To advance on behalf of the Delinquent Owner funds to accomplish the needs of the Homeowners Association and the amount or amounts of monies so advanced, including Attorneys' Fees which may have been reasonably incurred because of or in connection with such advance, including costs and expenses of the Homeowners Association if it must borrow to pay expenses because of the Delinquent Owner, together with Interest thereupon may be collected by the Homeowners Association and such advance or loan by the Homeowners Association shall not waive the default;

8.3.3. To file an action in equity to foreclose its lien at any time after the effective date thereof, which lien may be foreclosed by an action in the name of the Homeowners Association in like manner as a foreclosure of a mortgage on real property;

8.3.4. To file an action at law to collect said Assessment, plus Interest, plus court costs and Attorneys' Fees, without waiving any lien rights and/or rights of foreclosure in the Homeowners Association.

8.4. Collection of Assessments Against Residential Units by Declarant or Any Institutional Mortgagees

In the event, for any reason, the Homeowners Association shall fail to collect the Assessments, then in that event Declarant or any Institutional Mortgagee shall at all times have the right (but not the obligation): (i) to advance such sums as the Homeowners Association could have advanced as set forth above; and/or (ii) to collect such Assessments and, if applicable, any such sums advanced by Declarant or such Institutional Mortgagee, as the case may be, using the remedies available to the Homeowners Association as set

forth above, which remedies (including, but not limited to, recovery of Attorneys' Fees) are hereby declared to be available to Declarant or such Institutional Mortgagees, as the case may be.

9. METHOD OF DETERMINING ASSESSMENTS

9.1. Determining Amount of Annual Assessment

9.1.1. The total anticipated Operating Expenses for each calendar year shall be set forth in a budget ("Hills of Welleby Budget") prepared by the Board as required under the Hills of Welleby Documents. The total anticipated Operating Expenses shall be apportioned among the Residential Units as follows:

9.1.2. The total anticipated Operating Expenses as reflected by the Hills of Welleby Budget shall be divided equally among the "Contributing Units" (as the term is hereinafter defined) and the quotient thus arrived at (adjusted quarterly as hereinafter set forth) shall constitute and be called the Annual Assessment. The Board may adjust the Annual Assessment on a quarterly basis by dividing the total anticipated Operating Expenses for the remaining quarters of the calendar year (as determined by the budget for such expenses) by the number of Contributing Units as of thirty (30) days prior to the end of such calendar quarter, the quotient being the instalment of the Annual Assessment for the next quarter.

9.1.3. A Residential Unit for which a certificate of occupancy is issued during a quarter for which the Annual Assessment has already been assessed shall be deemed assessed the amount of such Annual Assessment pro rated from the date the certificate of occupancy for such Residential Unit is issued. The Annual Assessment may also be adjusted quarterly in the instances where the Board determines that the estimated Operating Expenses are insufficient to meet the actual Operating Expenses being incurred, in which event the anticipated Operating Expenses for the remaining quarters may be increased accordingly in calculating the Annual Assessment.

9.1.4. The phrase "Contributing Unit" shall mean Residential Units within the Subject Property other than those Residential Units which are owned by Declarant.

9.1.5. The Annual Assessment which is levied against a Residential Unit shall be in addition to any Remedial Maintenance Fees levied by Declarant or the Homeowners Association pursuant to Section 6 of this Declaration.

9.2. Annual Assessment Payments

The Annual Assessments shall be payable by Owners semiannually, quarterly, monthly or otherwise, as the Board may determine on the first day of any such period.

9.3. Special Assessments on Residential Units

Special Assessments shall, unless otherwise provided herein, be assessed in the same manner as the Annual Assessment. Special Assessments shall be paid in such installments or in a lump sum as the Board shall, from time to time, determine.

10. ENFORCEMENT OF DECLARATION

The enforcement of this Declaration may be by a proceeding at law for damages or in equity to compel compliance with the terms hereof or to prevent violation or breach of any of the covenants or terms herein. Enforcement may be by Declarant (for so long as Declarant owns any portion of the Subject Property), the Homeowners Association (if the Homeowners Association is enforcing the Declaration against an Owner or his guests, invitees, licensees,

lessees or family members) or any three (3) Owners. Should the party seeking enforcement be the prevailing party in such action, then the person against whom enforcement has been sought shall pay Attorneys' Fees to the prevailing party.

11. AMENDMENTS

11.1. Amendment Process

The process of amending this Declaration shall be as follows:

11.1.1. Until the Turnover Date, all Amendments or modifications including, but not limited to, the addition of supplemental Common Areas to the Subject Property, shall only be made by Declarant, which Amendments shall be signed by Declarant and need not be joined by any other party; provided, however, that the Homeowners Association shall, forthwith upon request of Declarant, join in any such Amendments or modifications and execute such instruments to evidence such joinder and consent as Declarant shall, from time to time, request.

11.1.2. After the Turnover Date, Amendments may be made to this Declaration only by the consent of the majority of the Members and by a majority of the Board. Where an Amendment materially and adversely affects the rights of any Institutional Mortgagee, the consent of said Institutional Mortgagee shall also be required. Where the rights of two (2) or more Institutional Mortgagees are affected, then the consent of a majority of the Institutional Mortgagees shall be required. Consents required pursuant to this Paragraph 11.1.2 shall be in writing and attached to the Amendment.

11.1.3. Notwithstanding the foregoing, the Homeowners Association may make Amendments to this Declaration in order to correct a scrivener's error or other defect or omission without the consent of the Owners and Institutional Mortgagees; provided that such Amendment does not materially and adversely affect an Owner's property rights and does not, in a material fashion impair the rights or priorities of any Institutional Mortgagee, Owner or Declarant. An Amendment effected pursuant to the terms of this Paragraph 11.1.3 need be signed only by the Homeowners Association and, for so long as Declarant owns any portion of Hills of Welleby, Declarant.

11.1.4. Notwithstanding the foregoing, no Amendment shall be effective which shall in a material fashion impair the rights or priorities of Declarant or of any Institutional Mortgagee under this Declaration without the specific written approval of Declarant and/or the Institutional Mortgagee(s) affected thereby.

11.2. Effective Date of Amendment

An Amendment to this Declaration made in accordance with Paragraph 11.1 shall become effective upon its recordation amongst the Public Records of the County, and shall be mailed to each Owner and Institutional Mortgagee as soon after the recording thereof as is practicable.

11.3. Articles and Bylaws

The Articles and Bylaws shall be amended as provided therein.

12. MISCELLANEOUS

12.1. No Implied Waiver

The failure of Declarant, any Owner or the Homeowners Association to object to an Owner's or other party's failure to comply with the covenants or restrictions contained herein shall in no event be deemed a waiver of any right to object to same and to seek compliance therewith in accordance with the provisions herein.

OFF
REC 13957 PAGE 657

12.2. Captions

Section, paragraph and subparagraph captions which may be inserted throughout this Declaration are intended only as a matter of convenience and for reference only and in no way shall such captions or headings define, limit or in any way affect any of the terms and provisions of this Declaration.

12.3. Context

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

12.4. Severability

In the event any one of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

12.5. Term

This Declaration and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens and liens contained herein shall run with and bind the Subject Property, and inure to the benefit of Declarant, the Owners, Institutional Mortgagees and their respective legal representatives, heirs, successors and assigns for a term of forty (40) years from the date of the recording of this Declaration amongst the Public Records of the County, after which time this Declaration shall be automatically renewed and extended for successive periods of ten (10) years each, unless at least one (1) year prior to the termination of such forty (40) year term or any such ten (10) year extension thereof there is recorded amongst the Public Records of the County, an instrument ("Termination Instrument") signed by the Owners of at least two-thirds (2/3) of all the Residential Units and the Institutional Mortgagees holding at least two-thirds (2/3) of all mortgages (by number and not by amount thereof) encumbering Residential Units agreeing to terminate this Declaration, upon which event, this Declaration shall be terminated upon the expiration of the forty (40) year term or the ten (10) year extension thereof during which the Termination Instrument is recorded.

12.6. Conflict

In the event of a conflict between the provisions of this Declaration and the provisions of the Articles and/or Bylaws, the provisions of this Declaration shall control.

12.7. Rule Against Perpetuities

In the event any court should hereafter determine any provisions as originally drafted herein are in violation of the rule of law known as the "rule against perpetuities" or any other rule of law because of the duration of the period involved, the period specified in this Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rule of law, and for such purpose, "measuring lives" shall be those of the incorporators of the Homeowners Association.

IN WITNESS WHEREOF, this Declaration is executed by the parties hereto on the date indicated below thier respective signatures.

WITNESSES:

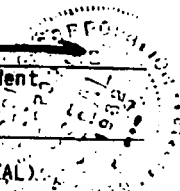
[Handwritten signatures]

NEWMAR BUILDING CORPORATION, a Florida corporation

By: *David Berman*
DAVID BERMAN, Vice President

Date: 9/23/86

(CORPORATE SEAL)



STATE OF FLORIDA)

COUNTY OF BROWARD)

SS:

NOTARY

I HEREBY CERTIFY that on this day before me, a Notary Public duly authorized in the State and County named above to take acknowledgments, personally appeared, DAVID BERMAN, to me known and known to me to be the person described as the Vice President of NEWMAR BUILDING CORPORATION, who signed the foregoing instrument as such person, and acknowledged the execution thereof to be his free act and deed as such person for the uses and purposes therein mentioned, and he affixed thereto the official seal of said corporation, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and official seal in the State and County last aforesaid, this 23rd day of September, 1986.

Notary Public
State of Florida at Large

(SEAL)

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. APR 14, 1989
BONDED THRU GENERAL INS. UND.

OFF 13957 PAGE 659

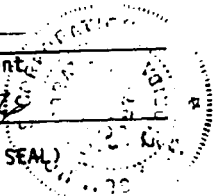
Handwritten signature
Phyllis Casanova

GEM HOMES CORPORATION, a Florida corporation

By: *[Signature]*
JOHN A. MORELL, President

Date: *9/23/86*

(CORPORATE SEAL)



STATE OF FLORIDA)
) SS:
COUNTY OF BROWARD)

I HEREBY CERTIFY that on this day before me, a Notary Public duly authorized in the State and County named above to take acknowledgments, personally appeared JOHN A. MORELL, to me known and known to me to be the person described as the President of GEM HOMES CORPORATION, who signed the foregoing instrument as such person, and acknowledged the execution thereof to be his free act and deed as such person for the uses and purposes therein mentioned, and he affixed thereto the official seal of said corporation, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and official seal in the State and County last aforesaid this 23 day of September, 1986.

[Signature]
Notary Public
State of Florida at Large

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. APR 14, 1989
BONDED THRU GENERAL INS. LNC.

REC 13957 PAGE 660

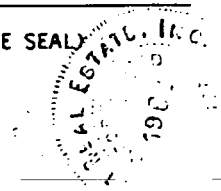
Edward J. Kaplan
Proxly Procureur

BEST REAL ESTATE, INC., a Florida corporation

By: *[Signature]*
EDWARD J. KAPLAN, President

Date: *9/23/86*

(CORPORATE SEAL)



STATE OF FLORIDA)
) SS:
COUNTY OF BROWARD)

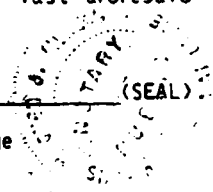
I HEREBY CERTIFY that on this day before me, a Notary Public duly authorized in the State and County named above to take acknowledgments, personally appeared, EDWARD J. KAPLAN, to me known and known to me to be the person described as the President of BEST REAL ESTATE, INC., a Florida corporation, who signed the foregoing instrument as such person, and acknowledged the execution thereof to be his free act and deed as such person for the uses and purposes therein mentioned, and he affixed thereto the official seal of said corporation, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and official seal in the State and County last aforesaid this 23 day of September, 1986.

Notary Public
State of Florida at Large

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
BY COMMISSION EXP. APR 14, 1989
BONDED THRU GENERAL INVS. UNC.



OFF 13957 PAGE 661

[Handwritten Signature]
Phyllis Baschard

HILLS OF WELLEBY
HOMEOWNERS ASSOCIATION, INC.,
a Florida not-for-profit corporation

By: *[Handwritten Signature]*
EDWARD J. KAPLAN, Vice President

Attest: *[Handwritten Signature]*
JOHN A. MORELL, Secretary

Date: 9/23/86

(CORPORATE SEAL)

THIS IS NOT A
COPY

STATE OF FLORIDA)
COUNTY OF BROWARD)

SS:

I HEREBY CERTIFY that on this day before me, a Notary Public duly authorized in the State and County named above to take acknowledgments, personally appeared, EDWARD KAPLAN and JOHN A. MORELL, to me known and known to me to be the person described as the Vice President and Secretary, respectively, of HILLS OF WELLEBY HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, who signed the foregoing instrument as such person, and acknowledged the execution thereof to be his free act and deed as such person for the uses and purposes therein mentioned, and he affixed thereto the official seal of said corporation, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and official seal in the State and County last aforesaid this 23rd day of September, 1986.

[Handwritten Signature] (SEAL)
Notary Public
State of Florida at Large
My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
BY COMMISSION EXP. APR 14, 1989
BONDED THRU GENERAL INS. UNO.

OFF 13957 PAGE 662

THE WILLIAM LYON COMPANY,
a California corporation

Debra J. Moran
Angela J. Voller

By: Dwight Jundt
DWIGHT JUNDT Vice President

Date: 9/23/86

(CORPORATE SEAL)

STATE OF FLORIDA)
) SS:
COUNTY OF BROWARD)

I HEREBY CERTIFY that on this day before me, a Notary Public duly authorized in the State and County named above to take acknowledgments, personally appeared, DWIGHT JUNDT, to me known and known to me to be the person described as the Vice Pres. of THE WILLIAM LYON COMPANY, who signed the foregoing instrument as such person, and acknowledged the execution thereof to be his free act and deed as such person for the uses and purposes therein mentioned, and he affixed thereto the official seal of said corporation, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and official seal in the State and County last aforesaid this 23rd day of September, 1986.

Patricia A. Zielinski (SEAL)
Notary Public
State of Florida at Large

My Commission Expires:

SEP 27 1987
My Commission Expires: SEP 27 1987

EXHIBIT A

LEGAL DESCRIPTION OF SUBJECT PROPERTY

All of HILLS OF WELLEY UNIT FOURTEEN, according to the Plat thereof, recorded in Plat Book 109, Page 41 of the Public Records of Broward County, Florida.

THIS IS NOT AN
OFFICIAL COPY

OFF 13957 PAGE 664

EXHIBIT B

FILED

AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
WELLEBY HOMEOWNERS ASSOCIATION, INC.
(A Florida Corporation Not For Profit)

AUG 27 11 27 AM '86
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

The undersigned, the President, Vice President and Secretary of Welleby Homeowners Association, Inc. do hereby make, file and acknowledge these Amended and Restated Articles of Incorporation, the original Articles of Incorporation having been filed with the Office of the Secretary of State of the State of Florida on the 7th day of AUGUST, 1986. These Amended and Restated Articles of Incorporation were duly adopted by the Directors and the Members as provided in the original Articles of Incorporation. These Amended and Restated Articles of Incorporation merely restate and integrate the original Articles of Incorporation and the amendments thereto and do not further amend the provisions of the Articles of Incorporation, except as specifically indicated herein or as previously amended and as such there is no discrepancy between those provisions and the provisions of these Amended and Restated Articles of Incorporation.

ARTICLE I DEFINITIONS

- 1.1. "Articles" shall mean these Articles of Incorporation of the Association.
- 1.2. "Association" shall mean Hills of Welleby Homeowners Association, Inc., a Florida corporation not for profit, its successors and assigns.
- 1.3. "Board" shall mean the Board of Directors of the Association.
- 1.4. "Bylaws" shall mean the Bylaws of the Association.
- 1.5. "Declarant" shall mean NEWMAR BUILDING CORPORATION, a Florida corporation, BEST REAL ESTATE, INC., a Florida corporation, GEM HOMES CORP., a Florida corporation and THE WILLIAM LYON COMPANY, a California corporation, its grantees, successors and assigns.
- 1.6. "Director" shall mean a member of the Board.
- 1.7. "Hills of Welleby Documents" shall mean, in the aggregate, the Protective Covenants, these Articles, the Bylaws and all of the instruments and documents referred to herein or therein.
- 1.8. "Institutional Mortgagee" shall mean any lending institution having the first mortgage lien upon a "Residential Unit" (as defined in the Protective Covenants), including any of the following institutions: (i) a life insurance company or subsidiary thereof doing business in the State of Florida which is approved by the Commissioner of Insurance of the State of Florida; (ii) a federal or state savings and loan association or commercial bank; (iii) a federal or state building and loan association; (iv) an investment or mortgage banking company licensed to do business in the State of Florida or any subsidiary thereof qualified to make mortgage loans in the State of Florida; (v) a pension or profit-sharing fund qualified under the Internal Revenue Code; or (vi) an entity which is a wholly owned subsidiary of one of the institutions referenced in subparagraphs (i) through (v) above.
- 1.9. "Member" shall mean any person or entity holding membership in the Association as provided herein.
- 1.10. "Owner" shall mean the record owner of fee simple title to any Residential Unit located within the Subject Property.

1.11. "Protective Covenants" shall mean the Declaration of Protective Covenants Covering the Development, Use and Enjoyment of Welleby, An Exclusive Residential Community, recorded in Official Records Book 13092 at Page 242 among the Public Records of Broward County, Florida and the Declaration of Restrictive Covenants for Hills of Welleby to be recorded amongst the Public Records of Broward County, Florida. A copy of these Articles will be attached as Exhibit B to the Declaration of Restrictive Covenants for Hills of Welleby.

1.12. "Subject Property" shall mean and refer to that certain parcel of real property, more particularly described in the Protective Covenants.

1.13. "Successor Developer" shall mean any person or entity owning a Residential Unit within the Subject Property for the purpose of development and sale and designated as a "Welleby Developer" (as defined in the Protective Covenants) pursuant to the provisions of the Protective Covenants.

ARTICLE II
NAME

The name of this Association shall be HILLS OF WELLEBY HOMEOWNERS ASSOCIATION, INC., whose present address is 1605 North State Road 7, Margate, Florida 33061.

ARTICLE III
PURPOSE OF THE ASSOCIATION

The purpose for which the Association is organized is to own, operate, administer, maintain and repair certain portions of the Subject Property in accordance with the terms, provisions and conditions contained in the Declaration of Restrictive Covenants; to enforce the provisions thereof; and to collect and disburse expenses as contemplated by the Hills of Welleby Documents.

ARTICLE IV
POWERS

The powers of the Association shall include and be governed by the following provisions:

A. The Association shall have all of the common law and statutory powers of a corporation not for profit which are not in conflict with the terms of the Hills of Welleby Documents.

B. The Association shall have all of the powers reasonably necessary to implement its purposes, including, but not limited to, the following:

1. to make reasonable rules and regulations governing the use of the Subject Property;

2. to make, levy and collect Annual Assessments, Special Assessments and/or any other assessments for the purpose of obtaining funds from the Members to pay for the expenses or charges as contemplated by the Hills of Welleby Documents including, but not limited to, the operational and administrative expenses of the Association and the costs of collection; and to use and expend the proceeds of assessments in the exercise of its powers and duties hereunder;

3. to own, operate, maintain, administer and repair portions of the Subject Property in accordance with the Hills of Welleby Documents;

4. to enforce by legal means the obligations of the Members of the Association and the provisions of the Hills of Welleby Documents;

5. to suspend the voting rights of an Owner for any period during which the violation of any of the provisions of the Protective Covenants

should continue, such as, but not limited to, any period during which assessments against a Residential Unit remain unpaid, as provided in the Protective Covenants;

6. to deal with other corporations and the associations or representatives thereof on matters of mutual interest;

7. to employ personnel, retain independent contractors and contract for professional personnel required for the management and operation of the Association's duties and enter into any other agreements consistent with the purposes of the Association; and

8. to administer and carry out the obligations of the Association as set forth in the Declaration of Restrictive Covenants.

ARTICLE V MEMBERS

The qualification of the Members, the manner of their admission to membership in the Association ("Membership"), the termination of such Membership and voting by the Members shall be as follows:

A. The Membership of the Association shall be comprised of the Owners.

B. Membership of Owners shall be established as follows:

1. Every person or entity who is a record Owner of a Residential Unit shall become a Member effective upon the date of recording amongst the Public Records of Broward County, Florida, of a deed or other instrument of conveyance establishing the record fee simple title of the Owner and the delivery to the Association of a true copy of such instrument.

2. Change of Membership in the Association shall be established by the recording among the Public Records of Broward County, Florida, of a deed or other instrument of conveyance establishing the record fee simple title of the new Owner and the delivery to the Association of a true copy of such instrument. Thereupon, the Membership and all rights arising therefrom of the prior Owner shall be terminated.

C. Each and every Member shall be entitled to the benefits of Membership, and shall be bound to abide by the provisions of the Hills of Helleby Documents.

D. Each Member shall be entitled to one (1) vote for each Residential Unit owned within the Subject Property. In the event that there is more than one (1) Owner of fee simple interest of record of a Residential Unit ("Co-Owners"), the vote to which such Residential Unit is entitled shall be exercised, if at all, as a unit. The Co-Owners shall name a voting representative ("Voting Representative") in a proxy signed by all Co-Owners of such Residential Unit or, if appropriate, signed by properly designated officers, partners or principals of the respective legal entity owning the Residential Unit ("Proxy"), and shall file such Proxy with the Secretary of the Association prior to the meeting in which the vote ("Vote") is to be exercised. In the event the Proxy is not properly filed or if such designation is revoked by the filing of a statement with the Secretary of the Association by any Co-Owner which evidences such intent, the Vote associated with any Residential Unit may not be exercised until such time as a new Proxy is properly filed with the Secretary of the Association pursuant to this paragraph. The Association must receive the written determination of the Proxy prior to the meeting in which the Vote will be exercised by the Voting Representative or it shall be conclusively presumed that the Voting Representative is acting with the consent of the Co-Owners. Notwithstanding the foregoing, all Co-Owners shall be Members and may attend any meeting of the Association. Any lawful action taken by the Association in accordance with this paragraph, shall be deemed binding on all Owners their successors and assigns.

ARTICLE VI
TERM

The term for which the Association is to exist shall be perpetual.

ARTICLE VII
INCORPORATOR

The name and street address of the incorporators to these Articles is as follows:

| <u>NAME</u> | <u>ADDRESS</u> |
|------------------|--|
| George G. Berman | 1605 N. State Road 7 Margate, Florida 33063 |
| Edward J. Kaplan | 1605 N. State Road 7 Margate, Florida 33063 |
| John A. Morell | 5160 N.W. 15th Street, Suite A Margate, Florida 33063 |

ARTICLE VIII
OFFICERS

The affairs of the Association shall be managed by the President of the Association, assisted by one or several Vice Presidents, the Secretary and the Treasurer, and, if any, by the Assistant Secretary and Assistant Treasurer, subject to the directions of the Board.

The Board shall elect the President, Secretary and Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall, from time to time, determine. Such officers shall be elected annually by the Board at the first meeting of the Board following the "Annual Members' Meeting" (as defined in the Bylaws); provided, however, such officers may be removed by such Board and other persons may be elected by the Board as such officers. The President shall be elected from amongst the membership of the Board, but no other officer need be a Director. The same person may hold two offices, the duties of which are not incompatible; provided, however, the offices of President and a Vice President shall not be held by the same person, nor shall the offices of President and Secretary or Assistant Secretary be held by the same person.

ARTICLE IX
FIRST OFFICERS

The names of the officers who are to serve until the first election of officers by the Board are as follows:

| | |
|----------------|--------------------|
| President | - George G. Berman |
| Vice President | - Edward Kaplan |
| Secretary | - John A. Morell |
| Treasurer | - John A. Morell |

ARTICLE X
BOARD OF DIRECTORS

A. There shall be three (3) members on the first Board ("First Board") who are to serve until the "First Elected Board" as described herein. The Directors may, by a majority vote, determine to increase the size of the Board.

B. The names and street addresses of the persons who are to serve as the First Board are as follows:

| <u>NAME</u> | <u>ADDRESS</u> |
|------------------|--|
| George G. Berman | 1605 N. State Road 7 Margate, Florida 33063 |
| Edward J. Kaplan | 1605 N. State Road 7 Margate, Florida 33063 |
| John A. Morell | 5160 N.W. 15th Street, Suite A Margate, Florida 33063 |

C. The First Board shall be the Board of the Association until the "Turnover Date" (as hereinafter defined). The Declarant shall have the right to appoint, designate and elect all of the Directors of the First Board. The Declarant has the right to substitute Directors of the First Board and to appoint replacements in the event a vacancy is created on the First Board. The Declarant shall relinquish its right to appoint Directors and cause the First Board to resign on the Turnover Date. Thereupon, the Declarant shall cause all of its appointed Directors to resign and the Members shall be entitled to elect Directors by a vote ("First-Elected Board"). Thereafter, at the Annual Members' Meeting in the month of January of each year, the Members shall designate Directors by a plurality vote. The term of each Director's service shall extend until the next Annual Members' Meeting and until his successor is duly elected and qualified, or until he is removed in the manner hereinafter provided.

A Director may be removed from office upon the affirmative vote of a majority of Owners, for any reason deemed to be in the best interests of the Owners. A meeting of the Owners to so remove a Director shall be held upon the written request of ten percent (10%) of the Owners.

D. The Turnover Date shall be sixty (60) days after the earlier of the following events: (i) four (4) months after the "Conveyance" (as hereinafter defined) by Declarant of a total of seventy-five percent (75%) of the total of the Residential Units planned for development within Hills of Welleby; or (ii) five (5) years after the Conveyance of the first Residential Unit; or (iii) when Declarant shall cause all Declarant-appointed members of the Board to resign, which Declarant may do at any time; or (iv) when Declarant shall determine that the development of Hills of Welleby has been completed; or (v) at such earlier time as Declarant, in its sole discretion may elect ("Turnover Event"). For purposes hereof, the term "Conveyance" as used herein shall mean the transfer of fee simple ownership from Declarant to a person or entity other than a Successor Developer.

E. The Board shall control the operation of the Association and shall possess all of the powers of the Association. All decisions of the Board, shall be by a majority vote of the Directors present at a meeting of the Board and each Director shall be entitled to one (1) vote.

ARTICLE XI INDEMNIFICATION

Every Director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees at all trial and appellate levels and postjudgment proceedings reasonably incurred by or imposed upon him in connection with the proceeding, litigation or settlement to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or officer of the Association, whether or not he is a Director or officer at the time such expenses and/or liabilities are incurred, except in such cases wherein the Director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, the indemnification herein shall apply only when the Board approves such settlement and reimbursement as being in the best interest of the

REF 13957 PAGE 669

Association. The foregoing right of indemnification shall be in addition to and not exclusive of any and all rights of indemnification to which such a Director or officer may be entitled by common or statutory law.

ARTICLE XII
BYLAWS

Bylaws of the Association shall be adopted by the First Board and thereafter may be altered, amended or rescinded by the affirmative vote of a majority of the Board.

ARTICLE XIII
AMENDMENTS

A. These Articles may be amended in the following manner:

1. The Board shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of the Members, which may be either the Annual Members' Meeting or a special meeting;

2. Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each Member within the time and in the manner provided in the Bylaws for the giving of notice of meetings of Members ("Required Notice"). If the meeting is an Annual Members' Meeting, the proposed amendment or such summary may be included in the notice of such Annual Members' Meeting; and

3. At such meeting a vote of the Members shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of two-thirds (2/3rds) of the Members present at a meeting of the Membership which is duly called and at which a quorum is present. Any number of amendments may be submitted to the Members and voted upon by them at one meeting; or

4. An amendment may be adopted by a written statement signed by all Directors and all Members setting forth their intention that an amendment to the Articles be adopted.

B. No amendment may be made to the Articles which shall in any manner reduce, amend, affect or modify the provisions and obligations set forth in the Protective Covenants.

C. A copy of each amendment shall be certified by the Secretary of State of the State of Florida and shall not be effective until recorded amongst the Public Records of Broward County, Florida, as part of an amendment to the Protective Covenants.

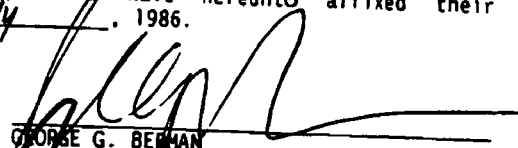
D. Notwithstanding the foregoing provisions of this Article XIII, there shall be no amendment to these Articles which shall abridge, amend or alter the rights of Declarant, including the right to designate and select Directors of the First Board as provided in Article X hereof, or the rights of an Institutional Mortgagee without the prior written consent thereto by Declarant or the Institutional Mortgagee, as the case may be.

ARTICLE XIV
REGISTERED OFFICE AND REGISTERED AGENT

The street address of the initial registered office of the Association is 1605 North State Road 7, Margate, Florida 33063, and the initial registered agent of the Association at that address shall be George G. Berman who shall also be the resident agent.

This amendment was adopted by the directors on August 13, 1986.

IN WITNESS WHEREOF, the incorporators have hereunto affixed their signatures, this 10 day of July, 1986.



GEORGE G. BERMAN

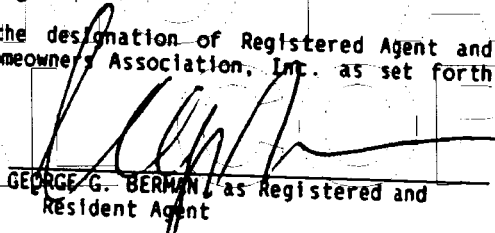


EDWARD J. KAPLAN



JOHN A. MORELL

The undersigned hereby accepts the designation of Registered Agent and Resident Agent of HIITS of Welley Homeowners Association, Inc. as set forth in Article XIV of these Articles.



GEORGE G. BERMAN, as Registered and Resident Agent

STATE OF FLORIDA)
) SS:
COUNTY OF BROWARD)

I HEREBY CERTIFY that on this day, before me, a Notary Public duly authorized in the State and County named above to take acknowledgments, personally appeared, GEORGE G. BERMAN, to me known to be the person described as the incorporator and registered agent in and who executed the foregoing Articles of Incorporation and he acknowledged before me that he executed the same for the purposes therein expressed.

IN WITNESS WHEREOF, the incorporator has hereunto affixed his signature this 10th day of July, 1986.



Notary Public

My Commission Expires: Notary Public, State of Florida at Large
My Commission Expires July 18, 1987

REC 13957 PAGE 671

STATE OF FLORIDA)
) SS:
COUNTY OF BROWARD)

I HEREBY CERTIFY that on this day, before me, a Notary Public duly authorized in the State and County named above to take acknowledgments, personally appeared, EDWARD J. KAPLAN, to me known to be the person described as the incorporator in and who executed the foregoing Articles of Incorporation and he acknowledged before me that he executed the same for the purposes therein expressed.

IN WITNESS WHEREOF, the incorporator has hereunto affixed his signature this 10th day of July, 1986.

Patricia Burzuda
Notary Public
My Commission Expires: Notary Public, State of Florida at Large
My Commission Expires July 18, 1987
Notary Public, State of Florida
My Commission Expires July 18, 1987

THIS IS NO OFFICIAL COPY

STATE OF FLORIDA)
) SS:
COUNTY OF BROWARD)

I HEREBY CERTIFY that on this day, before me, a Notary Public duly authorized in the State and County named above to take acknowledgments, personally appeared, JOHN A. MORELL, to me known to be the person described as the incorporator in and who executed the foregoing Articles of Incorporation and he acknowledged before me that he executed the same for the purposes therein expressed.

IN WITNESS WHEREOF, the incorporator has hereunto affixed his signature this 10th day of July, 1986.

Patricia Burzuda
Notary Public
My Commission Expires: Notary Public, State of Florida at Large
My Commission Expires July 18, 1987

EXHIBIT C

BYLAWS OF WELLEBY HOMEOWNERS ASSOCIATION, INC.

SECTION 1. IDENTIFICATION OF ASSOCIATION

These are the Bylaws of Welleby Homeowners Association, Inc. (the "Association") as duly adopted by its Board of Directors (the "Board"). The Association is a corporation not for profit, organized pursuant to Chapter 617, Florida Statutes for the purpose of owning, repairing, maintaining, managing, operating and administering a residential community known as "Hills of Welleby".

1.1 The office of the Association shall be for the present at 1605 North State Road 7, Margate, Florida 33063, and thereafter may be located at any place in Broward County, Florida, designated by the Board.

1.2 The fiscal year of the Association shall be the calendar year.

1.3 The seal of the Association shall bear the name of the Association, the word "Florida"; and, the words "Corporation Not For Profit".

SECTION 2. EXPLANATION OF TERMINOLOGY

2.1 The terms defined in the Articles of Incorporation of the Association ("Articles") as well as in the "Hills of Welleby Documents" (as defined in the Articles) are incorporated herein by this reference. All terms defined in the Articles or the Hills of Welleby Documents shall be in quotation marks with initial capital letters the first time that each term appears in these "Bylaws".

2.2 In the event of any conflict or ambiguity between these Bylaws and the Articles, the Articles shall control.

2.3 In the event of any conflict or ambiguity between the Articles and the "Protective Covenants," the Protective Covenants shall control.

SECTION 3. MEMBERSHIP; MEMBERS MEETINGS; VOTING AND PROXIES

3.1 The qualification of "Members", the manner of their admission to "Membership" in the Association, the termination of such Membership and the voting by Members shall be as set forth in the Articles.

3.2 The Members shall meet annually ("Annual Members' Meeting"). The Annual Members' Meeting shall be held at the office of the Association or at such other place in Broward County as the Board may determine and designate in the notice of such meeting, in the month of January of each year commencing with the year 1988. The purpose of the Annual Members' Meeting shall be to hear reports of the officers, elect members of the Board (subject to the provisions of the Articles) and transact any other business authorized to be transacted at such Annual Members' Meeting.

3.3 Special meetings of the Members (meetings other than the Annual Members' Meeting) shall be held at any place within Broward County whenever called by the President or Vice President or by a majority of the Board. A special meeting must be called by such President or Vice-President upon receipt of a written request from one-third (1/3) of the entire Membership.

3.4 A written notice of all Members' meetings, whether the Annual Members' Meeting or special meetings (collectively "Meeting"), shall be given to each Member at his last known address as it appears on the books of the Association and shall be mailed to the said address not less than fourteen (14) days nor more than forty-five (45) days prior to the date of the Meeting. Proof of such mailing shall be given by the affidavit of the person giving the notice. Any notice given hereunder shall state the time and place

of the Meeting and the purposes for which the Meeting is called. The notice of all Annual Members' Meetings shall, in addition, specify the number of "Directors" of the Association to be designated by Declarant or the number of Directors to be elected or designated by the Members, if applicable. All notices shall be signed by an officer of the Association or reflect a facsimile of such a signature. Notwithstanding any provisions hereof to the contrary, notice of any Meeting may be waived before, during or after such Meeting by a Member or by the person entitled to vote for such Member by signing a document setting forth the waiver of such notice.

3.5 The Members may, at the discretion of the Board, act by written response in lieu of a Meeting provided written notice of the matter or matters to be agreed upon is given to the Members or duly waived in accordance with the provisions of these Bylaws. Unless some greater number is required under the "Hills of Welleby Documents" and except as to the election of Directors which shall be accomplished by a plurality vote, the decision of fifty-one (51%) percent of the Members (as evidenced by written response to be solicited in the notice) shall be binding on the Membership provided a quorum of the Membership submits a response. The notice shall set forth a time period during which the written responses must be received by the Association.

3.6 A quorum of the Members shall consist of Members entitled to cast one-third (1/3) of the total number of votes of the Members. Any Member may join in the action of any Meeting by signing and concurring in the minutes thereof and such a signing shall constitute the presence of such Member for the purpose of determining a quorum. When a quorum is present at any Meeting and a question which raises the jurisdiction of such Meeting is presented, the holders of a majority of the voting rights present in person or represented by written "Proxy" shall be required to decide the question. However, if the question is one upon which a vote other than a fifty-one percent (51%) vote of a quorum is required by express provision of the Hills of Welleby Documents, then such express provision shall govern and control the required vote on the decision of such question.

3.7 At any Annual Members' Meeting when elections of Directors are to occur, written ballots are to be supplied by the Association to the Members for such purpose. Furthermore, at any Annual Members' Meeting at which Directors are to be elected, the Board shall appoint an election committee consisting of Members of the Association and one (1) officer of the Association to supervise the election, prepare ballots, count and verify ballots and Proxies, disqualify votes if such disqualification is justified under the circumstances and to certify the results of the election to the Board ("Election Committee"). The Election Committee shall be able to determine questions within its jurisdiction by plurality vote of its Members but matters resulting in deadlocked votes of the Election Committee shall be referred to the entire Board for resolution.

3.8 If a quorum is not in attendance at a Meeting, the Members who are present, either in person or by Proxy, may adjourn the Meeting from time to time until a quorum is present with no further notice of such adjourned Meeting being required unless otherwise determined by the Board.

3.9 Minutes of all Meetings shall be kept in a businesslike manner and be available for inspection by the Members and Directors at all reasonable business hours. The Association shall retain minutes for at least seven (7) years subsequent to the date of Meeting, which any such minutes reflect.

3.10 Voting rights of Members shall be as stated in the Declaration of Restrictive Covenants with respect to the election of all Boards other than the "First Board". Such votes may be cast in person or by Proxy. Proxies shall be valid only for the particular Meeting designated therein and, if so stated in the Proxy, any adjournments thereof. A Proxy must be filed with the Secretary of the Association before the appointed time of the Meeting in order to be effective. Any Proxy may be revoked prior to the time a vote is cast according to such Proxy.

REC 13957 PAGE 674

3.11 The voting on any matter at a Meeting shall be by secret ballot upon request of the holders of ten percent (10%) of the votes represented at such Meeting and entitled to be cast on such matter if such request is made prior to the vote in question. The presiding officer of the Meeting shall call for nominations for inspectors of election to collect and tally written ballots upon the completion of balloting upon the subject matter.

3.12 Member Approval for Certain Actions Required: Notwithstanding anything contained herein to the contrary, the Association shall be required to obtain the approval by the vote of "Owners" entitled to cast three-fourths (3/4) of the votes of the entire Membership (at a duly called meeting of the Owners at which a quorum is present whether by Proxy or otherwise) prior to the payment of or contracting for legal or other fees to persons or entities engaged by the Association for the purpose of suing, or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:

- THE HILLS OF WELLEBY
OFFICIAL COPY
- (i) the collection of "Annual Assessments" and "Special Assessments";
 - (ii) the collection of other assessments and/or charges which Owners are obligated to pay pursuant to the Hills of Welleby Documents;
 - (iii) the enforcement of the use and occupancy restrictions contained in the Hills of Welleby Documents;
 - (iv) in an emergency where waiting to obtain the approval of the Owners creates a substantial risk of irreparable injury to the "Common Areas," the "Dwelling Units" or to the Owners.

SECTION 4. BOARD OF DIRECTORS; DIRECTORS' MEETINGS

4.1 The business and administration of the Association shall be by its Board.

4.2 The appointment, election, removal and, if applicable, designation of Directors shall be conducted in accordance with the Articles. The term of a Director's service shall be as stated in the Articles.

4.3 Any person appointed, elected or designated as a Director shall have all the rights, privileges, duties and obligations of a Director of the Association.

4.4 The organizational meeting of a newly elected Board shall be held within ten (10) days of their election at such place and time as shall be fixed by the Directors at the meeting at which they were elected. No further notice of the organizational meeting shall be necessary.

4.5 Regular meetings of the Board may be held at such times and places in Broward County, Florida, as shall be determined from time to time by a majority of Directors. Special meetings of the Board may be called at the discretion of the President or the Vice-President. Special meetings must be called by the Secretary at the written request of at least one-third (1/3) of the Board. Such special meeting may be held in Broward County, Florida, at such time and place as determined by the Board or in such other place as all Directors shall agree upon.

4.6 Notice of the time and place of regular and special meetings of the Board, or adjournments thereof, shall be given to each Director personally or by mail, telephone or telegraph at least three (3) days prior to the day named for such meeting unless such notice is waived before, during or after such meeting. Any Director may waive notice of the meeting in writing before.

during or after a meeting and such waiver shall be deemed equivalent to the receipt of notice by such Director.

4.7 A quorum of the Board shall consist of the Directors entitled to cast a majority of the votes of the entire Board. A Director may join in the action of a meeting of the Board by signing the minutes thereof, and such signing shall constitute the presence of such Director for the purpose of determining a quorum. Matters approved by a majority of the Directors present at a meeting at which a quorum is present shall constitute the official acts of the Board except as may be otherwise specifically provided by law, or elsewhere within the Hills of Welleby Documents. If at any meetings of the Board there shall be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any meeting that takes place on account of a previously adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted. In the case of the adjournment of a meeting, no further notice of the adjourned meeting need be given unless otherwise determined by the Board.

4.8 The presiding officer at all Board meetings shall be the President. In the absence of the President, the Directors shall designate any one of their number to preside.

4.9 Directors' fees, if any, shall be determined by the Members.

4.10 Minutes of all meetings of the Board shall be kept in a businesslike manner and be available for inspection by the Members and Directors at all reasonable business hours.

4.11 "Executive Committees" consisting of members of the Board may be formed by the Board to have and exercise such powers of the Board as may be delegated to such Executive Committees by the Board.

4.12 Meetings of the Board may be open to all the Members on such terms as the Board may determine. The Board may also hold closed meetings.

4.13 Any action required or permitted to be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, specifically setting forth the action to be taken, shall be signed by a majority of the Directors entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of Directors.

SECTION 5. POWERS AND DUTIES OF THE BOARD OF DIRECTORS

5.1 All of the powers and duties of the Association shall be exercised by the Board except as hereinafter set forth. Such powers and duties of the Board shall include, but not be limited to, all powers and duties set forth in the Hills of Welleby Documents, as well as all of the powers and duties of a director of a corporation not-for-profit.

5.2 The Association may employ a manager to perform any of the duties, powers or functions of the Association. Notwithstanding the foregoing, the Association may not delegate to the manager the power to conclusively determine whether the Association should make expenditures for capital additions or improvements chargeable against the Association fund. The members of the Board shall not be personally liable for any omission or improper exercise by the manager of any duty, power or function delegated to the manager by the Association.

SECTION 6. OFFICERS OF THE ASSOCIATION

6.1 Executive officers of the Association shall be the President, who shall be a Director, the Vice-President(s), a Treasurer, and a Secretary, all of whom shall be elected annually by the Board. Any officer may be removed without cause from office by vote of the Directors at any meeting of the

Board. The Board may, from time to time, elect such other officers and assistant officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association. One person may hold any two offices simultaneously except where the functions of such offices are incompatible; but no person shall hold the office of President and any of the following offices simultaneously: Vice-President, Secretary or Assistant Secretary.

6.2 The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of the president of a corporation not for profit, including, but not limited to, the power to appoint such committees at such times from among the Members as he may in his discretion determine appropriate to assist in the conduct of the affairs of the Association.

6.3 In the absence or disability of the President, a Vice-President shall exercise the powers and perform the duties of the President. The Vice-President(s) shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board. In the event there shall be more than one Vice-President elected by the Board, then they shall be designated "First", "Second", etc. and shall exercise the powers and perform the duties of the presidency in such order.

6.4 The Secretary shall be responsible for the proper, timely and legal mailing of all notices to be sent to Directors or Members and shall keep the minutes of all meetings of the Board and the Members, which minutes shall be kept in a businesslike manner and be available for inspection by the Members and Directors at all reasonable times. He shall have custody of the seal of the Association and affix the same to instruments requiring such seal when duly authorized and directed to do so. He shall be custodian for the corporate records of the Association, except those of the Treasurer, and shall perform all of the duties incident to the office of Secretary of the Association as may be required by the Board or the President. The Assistant Secretary, if any, shall perform the duties of the Secretary when the Secretary is absent and shall assist the Secretary under the supervision of the Secretary.

6.5 The Treasurer shall have custody of all of the monies of the Association, including funds, securities and evidences of indebtedness. He shall keep the assessment rolls and accounts of the Members and shall keep the books of the Association in accordance with good accounting practices and he shall perform all of the duties incident to the office of the Treasurer. The Assistant Treasurer, if any, shall perform the duties of the Treasurer when the Treasurer is absent and shall assist the Treasurer under the supervision of the Treasurer.

6.6 The compensation, if any, of the officers and other employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from hiring a Director as an employee of the Association or preclude the contracting with a Director or a party affiliated with a Director for the management or performance of contract services for all or any part of the Hills of Welleby.

SECTION 7. ACCOUNTING RECORDS; FISCAL MANAGEMENT

7.1 The Association shall use the cash basis method of accounting and shall maintain accounting records in accordance with good accounting practices, which shall be open to inspection by the Members and "Institutional Mortgagees" or their respective authorized representatives at reasonable times. Such authorization as a representative of a Member must be in writing and signed by the person giving the authorization and dated within sixty (60) days of the date of the inspection. Written summaries of the accounting records shall be available at least annually to the Members. Such records shall include, but not be limited to, (i) a record of all receipts and expenditures; and (ii) an account for each Member which shall designate the

name and address of the Member, the amount of the Annual Assessments, Special Assessment and any other assessments, if any, charged to the Owner, the amounts and due dates for payment of same, the amounts paid upon the account and the balance due.

7.2 The Board shall adopt the Budget (as provided in the Declaration of Restrictive Covenants) of the anticipated "Operating Expenses" of the Association for each forthcoming calendar year (the fiscal year of the Association being the calendar year) at a special meeting of the Board ("Budget Meeting") called for that purpose to be held on or before November 30 of the year preceding the year to which the Budget applies. Prior to the Budget Meeting, the proposed Budget for the Operating Expenses shall be prepared by or on behalf of the Board. Within thirty (30) days after adoption of the Budget, a copy thereof shall be furnished to all Members who shall be given notice of the Annual Assessments, Special Assessment and/or any other assessments applicable to their "Lot" or Dwelling Unit. The copy of the Budget shall be deemed furnished and the notice of the Annual Assessments, Special Assessment and/or any other assessments shall be deemed given upon its delivery or upon its being mailed to the Members at their last known address as shown on the records of the Association.

7.3 In administering the finances of the Association, the following procedures shall govern: (i) the fiscal year shall be the calendar year; (ii) any money received by the Association in any calendar year may be used by the Association to pay expenses incurred in the same calendar year; (iii) any expense which is prepaid in any one calendar year for Operating Expenses which covers more than such calendar year shall be apportioned between calendar years on a pro rata basis; (iv) assessments shall be made and paid no less than quarterly in amounts no less than are required to provide funds in advance for payment of all of the anticipated current Operating Expenses and for all unpaid Operating Expenses previously incurred; and (v) items of Operating Expenses incurred in a calendar year shall be charged against income for the same calendar year regardless of when the bill for such expenses is received. Notwithstanding the foregoing, the assessments for Operating Expenses and any periodic installments thereof shall be of sufficient magnitude to insure an adequacy and availability of cash to meet all budgeted expenses in any calendar year as such expenses are incurred in accordance with the cash basis method of accounting.

7.4 The Annual Assessments, Special Assessment and any other assessments shall be payable as provided in the Declaration of Restrictive Covenants.

7.5 No Board shall be required to anticipate revenue from assessments or expend funds to pay for Operating Expenses not budgeted or which shall exceed budgeted items, and no Board is required to engage in deficit spending. Should there exist any deficiency which results from there being greater Operating Expenses than monies from assessments, then such deficits shall be carried into the next succeeding year's Budget as a deficiency or shall be the subject of an adjustment to the applicable assessment (e.g., Annual Assessments or Special Assessment).

7.6 The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board in which the monies of the Association shall be deposited. Withdrawal of monies from such account shall be only by checks signed by such persons as are authorized by the Board.

7.7 A report of the accounts of the Association shall be made annually by an auditor, accountant or Certified Public Accountant and a copy of the report shall be furnished to each Member no later than the first day of March of the year following the year for which the report is made. The report shall be deemed to be furnished to the Member upon its delivery or mailing to the Member shown on the records of the Association at his last known address shown on the records of the Association.

OFF
REC 13957 PAGE 678

SECTION 8. RULES AND REGULATIONS

The Board may at any meeting of the Board adopt rules and regulations or amend, modify or rescind then existing rules and regulations for the operation and use of any of the Common Areas; provided, however, that such rules and regulations are not inconsistent with the terms or provisions of the Hills of Welleby Documents. Copies of any rules and regulations promulgated, amended or rescinded shall be mailed or delivered to all Members shown on the records of the Association at the time of such delivery or mailing at the last known address for such Members as shown on the records of the Association and shall not take effect until forty-eight (48) hours after such delivery or mailing. Notwithstanding the foregoing, where rules and regulations are to regulate the use of specific portions of the Common Areas, such rules and regulations shall be effective immediately upon posting on such specific portions. Care shall be taken to insure that posted rules and regulations are conspicuously displayed and easily readable and that posted signs or announcements are designed with a view towards protection from weather and the elements. Posted rules and regulations which are torn down or lost shall be promptly replaced.

SECTION 9. PARLIAMENTARY RULES

The then latest edition of Robert's Rules of Order shall govern the conduct of meetings of all Members of the Association and the Board; provided, however, if such rules of order are in conflict with any of the Hills of Welleby Documents, Robert's Rules of Order shall yield to the provisions of such Instruments.

SECTION 10. AMENDMENT OF THE BYLAWS

10.1 These Bylaws may be amended as hereinafter set forth in this Section 10.

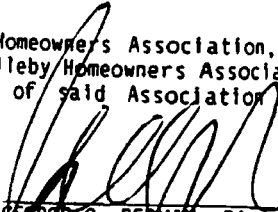
10.2 Any ByLaw of the Association may be amended or repealed, and any new Bylaw of the Association may be adopted by the affirmative vote of a majority of Directors then in office at any meeting of the Board or by written instrument signed by all Directors as is permitted by these Bylaws.

10.3 Notwithstanding any provision of this Section 10 to the contrary, these Bylaws shall not be amended in any manner which shall amend, modify or affect any provision, term, condition, right or obligation set forth in any other of the Hills of Welleby Documents, as the same may be amended from time to time in accordance with the provisions thereof, including, without limitation, any rights of Declarant or of an Institutional Mortgagee, without the prior written consent thereto by Declarant or the Institutional Mortgagee, as the case may be.


10.4 Any instrument amending, modifying, repealing or adding Bylaws shall identify the particular Section or Sections affected and give the exact language of such modification, amendment or addition or of the provisions repealed. A copy of each such amendment, modification, repeal or addition certified by the Secretary or Assistant Secretary of the Association shall be recorded amongst the Public Records of Broward County, Florida, in order to become effective.

[THIS SPACE INTENTIONALLY LEFT BLANK]

The foregoing Bylaws of Welleby Homeowners Association, Inc. are hereby adopted by all of the Directors of Welleby Homeowners Association, Inc. as and constituting the Board of Directors of said Association this _____ day of _____, 1986.



GEORGE G. BERMAN, Director



EDWARD J. KAPLAN, Director



JOHN A. MORELL, Director

THIS IS NOT AN
OFFICIAL COPY

OFF 13957 PAGE 680

EXHIBIT D

COMMON AREAS

Parcels A, B, C, D, E, F and G of HILLS OF WELLEBY UNIT FOURTEEN, according to the Plat thereof, recorded in Plat Book 109, at Page 41 of the Public Records of Broward County, Florida.

Together with: all interior streets and rights-of-way as shown on the Plat of HILLS OF WELLEBY UNIT FOURTEEN, including landscaped areas such as swales, median strips, including the strip located on N.W. 42nd Street within the bounds of the Plat, and cul-de-sacs within said rights-of-way.

Together with: the swale areas along Nob Hill Road and N.W. 44th Street contiguous to the Subject Property more particularly described on Exhibit A of this Declaration.

THIS IS AN
OFFICIAL COPY

L1.19

OFF 13957 PAGE 681

EXHIBIT E

WALL AND LANDSCAPING EASEMENT AREAS

The North five (5) feet of Lots 592, 593, 598, 599, 603, 604, 605, 606, 607, 608, 610, 611, 612, 615, 616, 617, 620 and 621, together with

The West five (5) feet of Lots 591, 590, 589, 588, 698, 697, 696, 695, 694 and 693.

All of the HILLS OF WELLEBY UNIT FOURTEEN, according to the Plat thereof, recorded in Plat Book 109, at Page 41 of the Public Records of Broward County, Florida.

THIS IS A COPY

OFF 13957 PAGE 682

CONSENT TO DECLARATION OF RESTRICTIVE COVENANTS
FOR HILLS OF WELLEBY

THIS CONSENT TO DECLARATION OF RESTRICTIVE COVENANTS FOR
HILLS OF WELLEBY ("Consent") is executed this 22 day of
October, 1986 by CORAL GABLES FEDERAL SAVINGS & LOAN ASSOCIA-
TION ("Bank").

W I T N E S S E T H:

WHEREAS, Bank is the mortgagee of that certain real
property more particularly described as:

Lots 634, 636, and 655

of HILLS OF WELLEBY UNIT FOURTEEN, according to the
Plat thereof recorded in Plat Book 109, at Page 41,
of the Public Records of Broward County, Florida;
and

WHEREAS, the Mortgagors of said lots ("Mortgagors")
desire to submit same to that certain Declaration of Restrictive
Covenants for HILLS OF WELLEBY dated as of September 22,
1986 ("Declaration"); and

WHEREAS, the Mortgagors have requested that the Bank
consent to the recordation of the Declaration; and

WHEREAS, the Bank desires to consent to the recordation
of the Declaration.

NOW, THEREFORE, Bank does hereby consent to that certain
Declaration of Restrictive Covenants for HILLS OF WELLEBY
dated as of September 22, 1986, to which this Consent is
attached.

IN WITNESS WHEREOF, Bank has executed this Consent this
22 day of October, 1986.

CORAL GABLES FEDERAL SAVINGS &
LOAN ASSOCIATION

By: Thomas H. Lefebure
Thomas H. Lefebure Vice President
(CORPORATE SEAL)

STATE OF FLORIDA)
) ss.
COUNTY OF BROWARD)

I HEREBY CERTIFY that on this day before me, an officer
duly authorized to take acknowledgements, personally appeared
Thomas H. Lefebure, as Vice President of
CORAL GABLES FEDERAL SAVINGS & LOAN ASSOCIATION, to me well
known to be the person authorized so to do and who executed
the foregoing instrument as the true wish and deed thereof
and affixed the corporate seal thereto.

SWORN TO AND SUBSCRIBED before me this 22 day of
October, 1986.

Susan E. Festa
Notary Public Susan E. Festa

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. MAR 15, 1990 (SEAL)
BONDED THRU GENERAL INS. UND.

My Commission Expires:
L9.21

OFF 13957 PAGE 664

45-0347730-3 4503469531
45-0347729-3 4503469670
45-0347731-6 4503469544
45-3015679-6 4530041319
45-3013527-0 04530132749

CONSENT TO DECLARATION OF RESTRICTIVE COVENANTS
FOR HILLS OF WELLEBY

THIS CONSENT TO DECLARATION OF RESTRICTIVE COVENANTS FOR HILLS OF WELLEBY ("Consent") is executed this 12th day of November, 1986 by AMERIFIRST SAVINGS & LOAN ASSOCIATION ("Bank").

W I T N E S S E T H:

WHEREAS, Bank is the mortgagee of that certain real property more particularly described as:

Lots 587, 588, 589, 624 and 670

590, 591, 592, 610, and 644

of HILLS OF WELLEBY UNIT FOURTEEN, according to the Plat thereof recorded in Plat Book 109, at Page 41, of the Public Records of Broward County, Florida; and

WHEREAS, the Mortgagors of said lots ("Mortgagors") desire to submit same to that certain Declaration of Restrictive Covenants for HILLS OF WELLEBY dated as of September 22, 1986 ("Declaration"); and

WHEREAS, the Mortgagors have requested that the Bank consent to the recordation of the Declaration; and

WHEREAS, the Bank desires to consent to the recordation of the Declaration.

NOW, THEREFORE, Bank does hereby consent to that certain Declaration of Restrictive Covenants for HILLS OF WELLEBY dated as of September 22, 1986, to which this Consent is attached.

IN WITNESS WHEREOF, Bank has executed this Consent this 12th day of November, 1986.

AMERIFIRST SAVINGS & LOAN ASSOCIATION

By: *Maritza Tojo*
Maritza Tojo, Assistant Vice-President

(CORPORATE SEALS)

STATE OF FLORIDA)
) ss.
COUNTY OF DADE)

I HEREBY CERTIFY that on this day before me, an officer duly authorized to take acknowledgements, personally appeared Maritza Tojo, as Assis't Vice-President of AMERIFIRST SAVINGS & LOAN ASSOCIATION, to me well known to be the person authorized so to do and who executed the foregoing instrument as the true wish and deed thereof and affixed the corporate seal thereto.

SWORN TO AND SUBSCRIBED before me this 12th day of November, 1986.

Susan [Signature]
Notary Public

My Commission Expires:

L9.29

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPI. OCT 28, 1989
DURING THIS TERM I AM AND

OFF 13957 PAGE 666

CONSENT TO DECLARATION OF RESTRICTIVE COVENANTS
FOR HILLS OF WELLEBY

THIS CONSENT TO DECLARATION OF RESTRICTIVE COVENANTS FOR HILLS OF WELLEBY ("Consent") is executed this 2nd day of December, 1986 by THE WILLIAM LYON COMPANY, a corporation existing under the laws of the State of California and authorized to transact business in the State of Florida ("Lyon").

W I T N E S S E T H:

WHEREAS, Lyon is the mortgagee of that certain real property more particularly described as:

Lots 611, 612, 614, 623, 640, 643, 658, 663, 664, 666, 669 and 671; and Lots 672 through 715, both inclusive, of the HILLS OF WELLEBY UNIT FOURTEEN, according to the Plat thereof, recorded in Plat Book 109, at Page 41, of the Public Records of Broward County, Florida; and

WHEREAS, the Mortgagors of said lots ("Mortgagors") desire to submit the same to that certain Declaration of Restrictive Covenants for HILLS OF WELLEBY dated as of September 22, 1986 ("Declaration"); and

WHEREAS, the Mortgagors have requested that Lyon consent to the recordation of the Declaration; and

WHEREAS, Lyon desires to consent to the recordation of the Declaration.

NOW, THEREFORE, in consideration of the premises herein contained, Lyon does hereby consent to that certain Declaration of Restrictive Covenants for HILLS OF WELLEBY dated as of September 22, 1986, to which this Consent is attached.

IN WITNESS WHEREOF, Lyon has executed this Consent this 2nd day of December, 1986.

THE WILLIAM LYON COMPANY, a California corporation,

By: Dwight W. Jundt
DWIGHT W. JUNDT
Vice President.

(corporate seal)

Debra J. Moun
John M. Kearney

STATE OF FLORIDA)
COUNTY OF BROWARD)

I HEREBY CERTIFY that on this day before me, an officer duly authorized to take acknowledgments, personally appeared DWIGHT W. JUNDT, as Vice President of THE WILLIAM LYON COMPANY, a California corporation authorized to transact business in the State of Florida, to me well known to be the person who executed the foregoing instrument and he acknowledged to me that he executed the same for the purposes therein expressed under authority duly vested in him by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal at Fort Lauderdale, Broward County, Florida, this 2nd day of December, 1986.

RECORDED IN THE OFFICIAL RECORDS OF
BROWARD COUNTY, FLORIDA

E. T. JOHNSON
COUNTY ADMINISTRATOR

My commission expires:

Patricia A. Zelnicki
Notary Public

(Seal)

Notary Public, State of Florida
My Commission Expires: Dec. 21, 1987

OFF REC 13957 PAGE 637

