IN RE: PETITION FOR DECLARATORY STATEMENT

VALARIE HARRING, Unit Owner
DEL PRADO PARK TOWNHOUSES CONDOMINIUM ASSOCIATION, INC.

DECLARATORY STATEMENT

The Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes (hereinafter “Division”) issues this Declaratory Statement under section 120.565, Florida Statutes.

PRELIMINARY STATEMENT

The Division received a Petition for Declaratory Statement on February 10, 2015, from Valarie Harring (hereinafter “Petitioner”) seeking a declaratory statement asking several questions about the procedures of Del Prado Park Townhouses Condominium Association, Inc. (hereinafter “Association”). Questions included whether section 718.112(2)(c), Florida Statutes, authorizes new procedures, policies, and fee structures regarding unit leases to be approved via email instead of at a noticed, open meeting; whether section 718.112(2)(c), Florida Statutes, authorizes the board of directors (hereinafter “Board”) to discuss lease compliance and policy via email; whether section 718.112(2)(c), Florida Statutes, authorizes the Board to hold an email vote to find unit owners non-compliant, approve violation notices, and cite intent to take legal action; and whether section 718.112(2)(c), Florida Statutes, requires Board decisions to deny lease renewal to be made at a noticed, open meeting.

Division counsel responded March 13, 2015, to confirm receipt of Petitioner's Petition for Declaratory Statement. In his response, Division counsel explained that the Division is not able to issue a declaratory statement regarding facts that have already taken place and that if not withdrawn by April 1, 2015, he would recommend that the
Division deny Petitioner’s Petition for Declaratory Statement. Division counsel served the Association a copy of the petition allowing it to intervene and file a response.

Notice of receipt of the petition was published in the March 16, 2015, issue of the Florida Administrative Register.

The Division received an Amended Petition for Declaratory Statement on March 25, 2015, clarifying Petitioner’s position in regards to her previous request. In her Amended Petition, Petitioner sought the Division’s guidance on whether section 718.112(2)(c), Florida Statutes, requires Board decisions denying lease renewals be made at a noticed, open meeting if the Board has delegated itself as the approving body.

Division counsel responded on March 26, 2015, to confirm receipt of Petitioner’s Amended Petition. Division counsel informed Petitioner that her question was clearer, but her Amended Petition failed to state with particularity the factual circumstances she was asking the Division to consider. Division counsel asked Petitioner to provide the Division with more facts to clarify the circumstances in the Amended Petition, and failure to do so by April 7, 2014, would result in a recommendation that the Division deny her Amended Petition.

Division counsel served a copy of the amended petition on the Association allowing it to intervene and file a response.

The Division received a Second Amended Petition for Declaratory Statement on April 3, 2015, in which Petitioner stated with particularity the factual circumstances surrounding her Second Amended Petition. The Second Amended Petition seeks a declaratory statement as to whether section 718.112, Florida Statutes, requires that board decisions relating to lease approval or renewal must be made at a noticed, open meeting. In her Second Amended Petition, Petitioner informed the Division that she mailed a copy of the Second Amended Petition to the Association, by serving it on Mansfield Management, the property management company for the Association.

Petitioner did not request a hearing.
FINDINGS OF FACT

The material facts are set out in the Second Amended Petition. The Division takes no position as to the accuracy of the facts and accepts them as submitted by Petitioner for the purposes of issuing this declaratory statement.

1. Del Prado Park Townhouses is a Florida condominium.

2. Del Prado Park Townhouses Condominium Association, Inc. is the Association that operates the condominium.

3. Section 11.3 of the Amended and Restated Bylaws of Del Prado Park Townhouses Condominium Association, Inc. (hereinafter “Bylaws”) provides:

   The Board of Directors shall have the authority to approve all sales, leases or rentals and renewals thereof, which authority may be delegated to a committee of unit owners. The Board shall have the authority to promulgate or use a uniform lease or rental application and require such other information from the proposed tenant as is appropriate under the circumstances. The Board shall have the right to delegate the screening of proposed tenants to a committee, or a commercial tenant screening concern. The Association may charge a fee for consideration of lease applications which shall not exceed the maximum fee prescribed by law.

4. The Board is comprised of five (5) members.

5. Section 3.9 of the Bylaws provides:

   A quorum at a Board meeting exists only when at least a majority of all Directors are present in person at a duly called meeting. Directors may participate in any meeting of the Board, by a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons.

6. Acts approved by a majority of Directors present and voting at a meeting where there is a quorum constitute acts of the Board.¹

7. In the past, the Board has delegated authority to approve lease applications to one member of the Board. This member is usually the secretary or secretary/treasurer of the Association, who works with the unit owner renting, leasing, or selling their unit.

¹ § 3.10, Amended and Restated Bylaws of Del Prado Park Townhouses Condo. Ass’n, Inc.
8. The current process requires approval by a majority of the Board. This is
reflected by the lease form requiring signatures of at least three Board members.

9. Petitioner is a unit owner who chooses to lease her unit, and plans to continue to
exercise this right in the future.

10. The Board and the property management company both believe that lease
approval is an administrative matter, and is thus exempt from the open and
noticed meeting requirement of section 718.112(2)(c), Florida Statutes.

11. Petitioner wishes to know whether meetings at which the Board considers lease
approvals must be done through open and noticed meetings under section
718.112(2)(c), Florida Statutes.

CONCLUSIONS OF LAW

1. The Division has jurisdiction to enter this order pursuant to sections 718.501 and
120.565, Florida Statutes.

2. Section 120.565, Florida Statutes, provides in part:

   (1) Any substantially affected person may seek a declaratory
       statement regarding an agency’s opinion as to the
       applicability of a statutory provision, or of any rule or order of
       the agency, as it applies to the petitioner’s particular set of
       circumstances.

   (2) The petition seeking a declaratory statement shall state
       with particularity the petitioner’s set of circumstances and
       shall specify the statutory provision, rule, or order that the
       petitioner believes may apply to the set or circumstances.

3. Rule 28-105.001, Florida Administrative Code provides:

   A declaratory statement is a means for resolving a
   controversy or answering questions or doubts concerning
   the applicability of statutory provisions, rules, or orders over
   which the agency has authority. A petition for declaratory
   statement may be used to resolve questions or doubts as to
   how the statutes, rules, or orders may apply to the
   petitioner’s particular circumstances. A declaratory
   statement is not the appropriate means for determining the
   conduct of another person.
4. Petitioner has standing to petition for a declaratory statement as a unit owner.  

5. Section 718.112(2)(c), Florida Statutes, provides in pertinent part:  

   Board of administration meetings. – Meetings of the board of administration at which a quorum of the members is present are open to all unit owners. Members of the board of administration may use e-mail as a means of communication but may not cast a vote on an association matter via e-mail.  

1. Adequate notice of all board meetings, which must specifically identify all agenda items, must be posted conspicuously on the condominium property at least 48 continuous hours before the meeting except in an emergency....  

6. Rule 61B-23.001(1)(a), F.A.C., defines "Meeting of the board of administration" for purposes of section 718.112(2)(c), Florida Statutes, as "any gathering of the members of the board of directors, at which a quorum of the members is present, for the purpose of conducting association business."  

7. Under Rule 61B-23.001(1)(a), F.A.C., a gathering of Directors is a "meeting of the board of administration" when each of the following requirements is met:  
   a. A quorum of the Board is present; and  
   b. The Board members gathered for the purpose of conducting association business.  

8. When both of these requirements are met, the gathering is a "meeting of the board of administration" that must be open to all unit owners and must be noticed through a conspicuous posting on the condominium property at least 48 hours prior to the meeting.  

9. Lease approval requires approval of a majority of the Board, or three of the five members of the Board. Under Section 3.9 of the Bylaws, a quorum of the Board exists when three of five members of the Board are present. Thus, in order for a lease to be approved, a quorum of the Board must be present at the meeting.  

10. When the Board is meeting for the purpose of conducting one of its duties established in the Bylaws, the Board is meeting for the purpose of conducting association business.

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2 § 120.565, Fla. Stat.
11. Section 11.3 of the Bylaws provides that approval of all leases is a function of the Board. Thus, when the Board is meeting to consider the approval of leases the Board is meeting to conduct association business.

12. Accordingly, any meeting of the Board, in which a quorum of Board members is present, held for the purpose of considering whether to approve a lease is a "meeting of the board of administration" and must be open to all unit owners and noticed at least 48 hours in advance pursuant to section 718.112(2)(c), Florida Statutes.

For the reasons stated above it is hereby:

ORDERED that meetings to approve lease applications submitted by unit owners must be open to all unit owners and noticed at least 48 hours in advance pursuant to section 718.112(2)(c), Florida Statutes.

DONE and ORDERED this 12th day of May 2015, at Tallahassee, Leon County, Florida.

KEVIN STANFIELD, Director
Department of Business and Professional Regulation
Division of Florida Condominiums, Timeshares, and Mobile Homes
Northwood Centre
1940 North Monroe Street
Tallahassee, FL 32399-1030
NOTICE OF RIGHT TO APPEAL

THIS FINAL ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY ANY PARTY ADVERSELY AFFECTED PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULE 9.110, FLORIDA RULES OF APPELLATE PROCEDURE BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.110(c), FLORIDA RULES OF APPELLATE PROCEDURE BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL ACCOMPANIED BY APPROPRIATE FILING FEES AND WITH THE AGENCY CLERK, 1940 NORTH MONROE STREET, NORTHWOOD CENTRE, TALLAHASSEE, FLORIDA 32399-2217; AGC.FILING@MYFLORIDALICENSE.COM; FAX (850) 488-5761 WITHIN THIRTY (30) DAYS OF THE RENDITION OF THIS FINAL ORDER.
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to Valarie Harring, 41360 Little Farm Road, Punta Gorda, FL 33982; and Brenda Marsh, Registered Agent for the Association, 4420 Flagship Drive, Fort Myers, FL 33919 on this 14th day of May 2015.

[Signature]
Agency Clerk's Office

Copies furnished to:

Thomas Morton
Chief Attorney
Valarie Harring
Unit owner, Unit 43, Del Prado Park Townhouses, Cape Coral, FL 33904
Mailing address:
41360 Little Farm Road,
Punta Gorda, FL 33982
239-995-7625 (home)
239-574-1110, ext. 119
Email: vaharring@aol.com

Response to Request for Declaratory Statement
Florida Condominium Act, "Sunshine" provisions

March 17, 2015

Mr. Morton:

Thank you for your prompt response to my request for a Declaratory Statement regarding the Florida Condominium Act’s Sunshine provisions. I understand from your response that the division is not able to issue statements regarding facts that have already taken place and that my petition, as stated, "is requesting the Division’s opinion as to past conduct of the Board."

I do apologize. The information as to the past conduct of the board was provided as background as 1) it was my understanding that I needed to be an affected party and 2) that I needed to outline the facts behind the request. Please let me clarify. I am requesting the statement not to determine whether past actions are legal but to obtain an opinion as to whether on-going actions are compliant.

Specifically, I am, at least, the second unit owner to be so informed of a “board decision” taken outside of a noticed meeting concerning lease renewal. I have been told the board believes such actions are permitted as “administrative matters” may be discussed and decided outside of noticed meetings. Further, as discussed in the original petition, that in this context, email votes are permissible.

At issue is whether this new and on-going approval procedure is compliant with Section 718.112(2)(c) of the Florida Condominium Act, which provides that notice of all board meetings must specifically identify agenda items, and must be posted conspicuously on the condominium property at least 48 continuous hours before the meeting, except in an emergency. Further, that written notice of any board meeting at which non-emergency special assessments, amendment to rules regarding unit use, the association budget or insurance deductibles will be considered must be mailed, delivered, or electronically transmitted to the unit owners, and posted conspicuously on the condominium property not less than 14 days prior to the meeting.

Also at issue is the provision of the statute related to Board of Administration meetings. ... Members of the board of administration may use e-mail as a means of communication but may not cast a vote on an association matter via e-mail...

If it is permissible, I would like to withdraw the portions of the request for Declaratory Statement that address past actions of the board, essentially Questions, 1, 2 and 3, and provide clarification to my existing request for Declaratory Statement which, simply put, boils down to Question 4, as modified.

Does the Florida Condominium Act, Section 718.112 as it pertains to amendment to rules regarding unit use and administration meetings, require that board decisions to deny lease renewal be made at a noticed, open meeting if the board has delegated itself as the approving body? Does the Act require that board decisions related to lease/tenant issues, including findings of non-compliance, fines, and possible legal action be made at a noticed, open meeting?
If this clarification/modification is not allowed, please advise and I will withdraw it as well and then resubmit, hopefully in proper form.

I am re-sending the new lease approval form, which includes signature lines for three board members, a majority of our five-member board.

Your time, patience and assistance is greatly appreciated. I apologize again for not being clear in the petition originally submitted. You may, of course, call or email any questions.

Sincerely,

[Signature]

Valarie Harring
Supplement to Annual & Seasonal Leases

This agreement is entered into between tenant ____________________________

and unit owner ____________________________ Unit #______

Term of rental will begin on ____________ and expire on ______________.

Annual leases: No automatic renewals. Seasonal Leases not to exceed 90
days; not more than two (2) times per year.

No children under 18 and no pets allowed. Our bylaws will be enforced. It is
the owner’s obligation to be certain of the tenant’s cooperation of
obeying the condo bylaws. Should the tenant not cooperate, there will be
fines imposed on the owner of the unit and the tenant may be subject to
nonrenewal of lease.

Signature of Tenant ____________________________ Date ____________

Signature of Owner ____________________________ Date ____________

Verification of age of Principal Tenant must be at least 55.
Verified by ____________ Date ____________ Type of proof?

Application submitted on ____________ Application approved on ____________

Background Check verified by Management ______ Approval Date ______

Lease supplement approved by Management Company ______ Date ______

Lease supplement approved by 3 Board Members

__________________________ Date ______

__________________________ Date ______

__________________________ Date ______
March 13, 2015

Valarie Harring
41360 Little Farm Road
Punta Gorda FL 33982

Re: Petition for Declaratory Statement, In Re: Del Prado Park Townhouses
Condominium Association, Inc., Docket No. 2015011114

Dear Ms. Harring:

We have received your petition for Declaratory Statement. The petition has been assigned to me. Your questions as I understand them are:

Whether section 718.112(2)(c), Florida Statutes, authorizes new procedures, policies, and fee structures regarding unit leases to be approved via email instead of at a noticed, open meeting.

Whether section 718.112(2)(c), Florida Statutes, authorizes the board of directors to discuss lease compliance and policy via email.

Whether section 718.112(2)(c), Florida Statutes, authorizes the board of directors to hold an email vote to find unit owners non-compliant, approve violation notices, and cite intent to take legal action.

Whether section 718.112(2)(c), Florida Statutes, requires board decisions to deny lease renewal to be made at a noticed, open meeting.

Please understand that a declaratory statement is a limited administrative proceeding. The division is not able to issue a statement regarding facts that have already taken place. The petition is requesting the Division's opinion as to past conduct of the Board. If you wish to withdraw your petition, please let us know by April 1, 2015. Otherwise, I will recommend that the Division deny your petition for declaratory statement.
Valarie Harring  
March 13, 2015  
Re: Del Prado Park Townhouses Condominium Association, Inc., Docket No. 2015011114  
Page 2

We are serving a copy of the petition on the association, as required by section 718.501(1)(g), Florida Statutes, so it may intervene and file a response if it chooses to do so. All parties should serve a copy of any future documents filed in this matter on all other parties and indicate this has been done on each filing.

Sincerely,

__________________________
Thomas Morton  
Chief Attorney

cc: Rikki Anderson, Administrative Assistant II, DBPR  
Del Prado Park Townhouses Condominium Association, Inc.  
c/o Brenda M. Marsh, Registered Agent  
4420 Flagship Drive  
Fort Myers FL 33919
Department of Business and Professional Regulation  
Division of Florida Condominiums, Timeshares and Mobile Homes  
Northwood Centre  
1940 North Monroe Street  
Tallahassee, FL 32398-1031

Valerie Herring  
Unit owner, Unit 43, Del Prado Park Townhouses, Cape Coral, FL 33904  
Mailing address:  
41360 Little Farm Road,  
Punta Gorda, FL. 33952  
239-355-7526 (home)  
239-574-1110, ext. 119  
Email: valherring@aol.com

Request for Declaratory Statement  
Florida Condominium Act, "Sunshine" provisions

Feb. 3, 2015

To whom it may concern:

In the wake of a bylaw change concerning the implementation of rental caps, the Del Prado Park Townhouses Association Board of Directors, and the association’s management company, has begun a new enforcement/compliance/tenant approval initiative that is impacting unit owners who choose to lease their units.

I am requesting a Declaratory Statement because I am one of the unit owners who has been impacted by both the bylaw change and by the new policies implemented last year, which, 1) were not made at a noticed, open meeting but were discussed via email discussions and approved via an email vote and 2) I have been unable to obtain the new policies/procedures/approval criteria in writing despite certified mail requests for records access.

At issue is compliance or lack thereof with: Section 718.112(2)(c) of the Florida Condominium Act, which provides that notice of all board meetings must specifically identify agenda items, and must be posted conspicuously on the condominium property at least 48 continuous hours before the meeting, except in an emergency. Further, that written notice of any board meeting at which non-emergency special assessments, amendment to rules regarding unit use, the association budget or insurance deductibles will be considered must be mailed, delivered, or electronically transmitted to the unit owners, and posted conspicuously on the condominium property not less than 14 days prior to the meeting.

Specifically:

Question 1: There are apparently new, yet-to-be specified procedures in place for unit owners who choose to lease their units. Does the Florida Condominium Act, Section 718.112(2)(c) as it pertains to amendment to rules regarding unit use, require that action to impose new procedures, policies, and/or a fee structure for new lease-related association-mandated services require a noticed meeting and public vote of the board of directors? Can new procedures, policies or cost-of-services be approved via email among board members? Can such changes be delegated to a management company without those changes being approved by the board at an open meeting?

Question 2: According to Mansfield Association Management, the board of directors for the Del Prado Park Townhouses Association held email discussions pertaining to lease compliance with existing, previously approved leases and lease policy matters. Are email discussions of this nature compliant with the Florida Condominium Act, Section 718.112(2)(c)?

Question 3: According to Mansfield Association Management, the board of directors for the Del Prado Park Townhouses Association held an email vote to find “a few” previously compliant unit owners non-compliant, to approve and send violation notices to include a date to re-submit previously approved leases, and to cite the intent to possibly take legal action. Are email votes of this nature compliant with the Florida Condominium Act, Section 718.112 (2)(c)?

Question 4: Does the Florida Condominium Act, Section 718.112(2)(c) as it pertains to amendment to rules regarding unit use, require that board decisions to deny lease renewal be made at a noticed, open meeting.
I am including:

- Cover letter
- Related findings by the Bureau of Compliance
- Correspondence/attachments

Any assistance would be greatly appreciated. You may, of course, call or email any questions.

Sincerely,

[Signature]

Valarie Harring
Del Prado Park Townhouses Condominium Board of Directors

In care of:

Brenda Marsh, LCAM & Realtor
Mansfield Association Management
4425 S. Landings Drive, Suite 150
Fort Myers, FL 33919
239-443-1346 Office
Brenda@Mansfieldsite.com

Valarie Harring
Unit owner, Unit 43
41360 Little Farm Road,
Punta Gorda, FL 33982
239-995-7625 (home)
239-574-1110, ext. 119 (work)

Sept. 8, 2014

Ms. Marsh:

Pursuant to your request I am providing another copy of the lease for my unit previously provided to and approved by the board. I point out that that lease has gone unquestioned until now and I am confused as to how a board-approved document has suddenly resulted in a “violation letter” — especially since, according to your email, there have been no noticed meetings or public vote to readress policies and procedures. Instead, we apparently had an “email discussion” and “email vote” to find multiple unit owners in violation of some new policy/enforcement action to which unit owners were not privy.

With all due respect, phshaw.

In addition, I am now informed that somehow the ballot on the rental restrictions bylaw change I had hand-delivered in January is not on file. While I am not unhappy that my October “no” vote was recorded among the “nays” I cannot fathom why this was not disclosed at the records inspection session or why October ballots and January ballots were commingled.

REQUEST TO ACCESS/INSPECT ASSOCIATION RECORDS

Florida law provides: "The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The records of the association shall be made available to a unit owner within 45 miles of the condominium property or within the county in which the condominium property is located within 5 working days after receipt of written request by the board or its designee." Further, "The failure of an association to provide the records within 10 working days after receipt of a written request shall create a rebuttable presumption that the association willfully failed to comply." See: § 718.111(12), Florida Statutes.

THE BOARD OF DIRECTORS OR ITS DESIGNEE OF DEL PRADO PARK TOWNHOUSES CONDOMINIUM ASSOCIATION: I request to inspect and copy the following official records of the association:

Item 1: All meeting minutes at which the subject of rental unit policy, procedure and compliance was discussed or approved, including but not limited to findings of violation and any new fees, charges or procedures to be imposed on unit owners.

Item 2: All email correspondence through which rental unit policy, procedure and compliance was discussed including but not limited to findings of violation and any new fees, charges or procedures to be imposed on unit owners. I am particularly interested in the email vote concerning in the “violation letters” sent to “a few” unit owners. You stated there were four board members in favor and one who abstained.

Item 3: Copies of the violation letters sent as a result of the board vote/action on alleged rental/lease documents non-compliance.

Item 4: Management contract.

Pursuant to Florida Condo Law, Chapter 718.112, which states when a unit owner files a written inquiry by certified mail
with the board of administration, the board shall respond in writing to the unit owner within 30 days of receipt of the inquiry.

I request a response to the following:

Item 1: Full disclosure, to include the actual cost to vendor, of any services that now will incur fees or charges that impact unit owners who lease or sell their units including, but not limited to, background checks, credit reports, documents and any other related services to be performed by Mansfield Association Management on behalf of the Del Prado Townhouses Condominium Board of Directors and passed on to unit owners.
RE: Letter from Mansfield Management re: board action

From: Brenda Marsh <brenda@mansfieldsite.com>
To: ValHarrington <ValHarrington@aol.com>
Cc: Bud Bushen <lakecarey2001@gmail.com>; Jane Longo <jlongo2@aol.com>; Richard Dobbs <doobie.dick@yahoo.com>
Steve Stapleton <SESTAPLETON1@gmail.com>
Date: Fri, Sep 5, 2014 11:35 am
20140905111537511.pdf

Hello Again Val,

The attached ballot is the only one found in the folder. I went thru each paper in the folder and there wasn't one from January. We counted this as your vote.

Thank you,

Brenda Marsh, LCAM & Realtor
Mansfield Association Management
4425 S. Landings Drive, Suite 150
Fort Myers, FL 33919
239-443-1346 Office
Brenda@MansfieldSite.com

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Hello Val,

Attached here is your ballot.

Thank you,

Brenda Marsh, LCAM & Realtor
Mansfield Association Management
4425 S. Landings Drive, Suite 150
Fort Myers, FL 33919
239-443-1346 Office
Brenda@MansfieldSite.com

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From: ValHarrington@aol.com [mailto:ValHarrington@aol.com]
Sent: Friday, September 05, 2014 7:22 AM
To: Brenda Marsh
Subject: Re: Letter from Mansfield Management re: board action
Ms. Marsh,

I still have not received a copy of my January ballot. As previously stated, you accidentally gave me a copy of the October ballot following the records inspection meeting. I advised as to the error and sent a self-addressed stamped envelope. Has the ballot been mailed?

- Valerie

In a message dated 9/4/2014 11:15:30 AM. Eastern Daylight Time, brenda@mansfieldsite.com writes:

Hello Val,

I consider the determination clear on the particulars of your email:

Any letter to you or any member, from my office that ends with “on behalf of the Board of Director’s for Del Prado Park Townhouses Condominium” is not coming on my own initiative. This was directed and approved by the Board before being mailed to the member.

On violations and violation letters. There is no need for a Board Meeting with minutes. This is the day to day responsibility of the Board to enforce the by-laws or rules and regulations. All the Board Members are made aware by email, if they have it. Anyone without email is phone by a Board Member to ascertain their opinion on any decision. Three out of five must agree with the action needed. In this case, four out of five voted to send the letter as was sent to you and a few others. Only one abstained from the vote.

Please conduct yourself accordingly.

Thank you,

Brenda Marsh, LCAM & Realtor
Mansfield Association Management
4425 S. Landings Drive, Suite 150
Fort Myers, FL 33919
239-443-1346 Office
Brenda @Mansfieldsite.com

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From: ValHarring@aol.com (mailto:ValHarring@aol.com)
Sent: Wednesday, September 03, 2014 10:50 PM
To: Brenda Marsh; valharring@aol.com
Subject: Re: Letter from Mansfield Management re: board action

Thank you. In the spirit of co-operation, I will re-copy and mail it to your office.

Please do advise, however, when the board met to take this action. Two board members say they are unaware of any meeting, unaware of any board-determined direction as is indicated in your letter or of any board-approved action taken on this matter at all.

- Valerie

In a message dated 9/3/2014 11:52:53 AM. Eastern Daylight Time, brenda@mansfieldsite.com writes:

Hello Valerie,

The lease that you are sending must be in the office with all the other association records. You may send them by email attachment to me or deliver them to me. I will be in the Cape and on Del Prado if you need me to stop by and pick them up.

Thank you,

Brenda Marsh, LCAM & Realtor
Mansfield Association Management
4425 S. Landings Drive, Suite 150
Fort Myers, FL 33919
239-443-1346 Office
Brenda @Mansfieldsite.com

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From: Valkharing@aol.com [mailto: Valkharing@aol.com]
Sent: Friday, August 29, 2014 12:07 AM
To: jane2@aol.com; Brenda Marsh; Valkharing@aol.com
Subject: Letter from Mansfield Management re: board action

Jane,

I received today a notice from Mansfield Management postmarked Aug. 27 at 6 p.m. regarding a board action pertaining to leases.

"The Board of Director's has discovered that some members have not complied with providing the renewed leases to the Association for their annual leases. At this time the Board is requiring all owners with tenants, to submit copies of any renewed or current lease contracts. They're expecting this to be completed within 20 days or no later than September 13, 2014. If an owner does not comply with this requirement, the Board may take action with the Association Attorney and move towards eviction."

I'm confused as we just spoke and I thought there have been no recent board meetings. I thought, in fact, that a board majority was not here. But perhaps I'm mistaken. Are you aware of any such meeting at which this official action of the board was taken and can you provide a date? I would like to request the minutes.

Meanwhile, if this is what the board has voted to do, may I drop off another copy of the lease, which, as you know, was approved and has never been questioned? It will save me some postage.

- Valerie

No virus found in this message.
Checked by AVG - www.avg.com
Version: 2014.0.4745 / Virus Database: 4015/0142 - Release Date: 09/02/14

No virus found in this message.
Checked by AVG - www.avg.com
Version: 2014.0.4765 / Virus Database: 4015/0153 - Release Date: 09/04/14

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Del Prado Park Townhouse Condominium Association, Inc.

Amended and Restated

Declaration of Condominium

Rules and Regulations

By-Laws
Del Prado Park Townhouse Condominium Association, Inc.
Declaration of Condominium
Rules and Regulations
By-Laws

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I certify that the attached is a true and correct copy of the Articles of Incorporation of DEL PRADO PARK TOWNHOUSES CONDOMINIUM ASSOCIATION, INC., a corporation organized under the Laws of the State of Florida, filed on August 22, 1986, as shown by the records of this office.

The document number of this corporation is N16492.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the 27th day of August, 1986.

George Firestone  
Secretary of State
RESOLUTION
DEL PRADO PARK TOWNHOUSES SENIOR CITIZEN CONDOMINIUM
O.R. BOOK 581, PAGE 200

Since, it was the original intent of the developer to limit occupancy of the units to adults; and,
Since, more than 80% of the units are occupied by at least one person over the age of 55 years; and
Since, the Department of Housing and Urban Development has issued rules which will exempt our condominium for
the familial status requirements of the Fair Housing Act if:

At least 80% of the units have one occupant age 55 or older;
Advertising of units will limit occupants to having at least one occupant age 55 or older;
Lease provisions will include that at least one occupant age 55 or older;
Condo rules will include a requirement that at least one occupant age 55 or older;
A notice will be posted in all common areas that at least one occupant of each unit must be age 55 or older.

It is resolved that the future occupancy of the units of DEL PRADO PARK TOWNHOUSES SENIOR CITIZEN CONDOMINIUM must include at least one occupant of each unit must be age 55 and the name of this condominium shall be changed to: of DEL PRADO PARK TOWNHOUSES SENIOR CITIZEN CONDOMINIUM.

Further resolved that upon the approval of 51% of the members that the name of this condominium shall be changed to: of DEL PRADO PARK TOWNHOUSES SENIOR CITIZEN CONDOMINIUM and:

At least 80% of the units have one occupant age 55 or older;
Advertising of units will limit occupants to having at least one occupant age 55 or older;
Lease provisions will include that at least one occupant age 55 or older;
Condo rules will include a requirement that at least one occupant age 55 or older;
A notice will be posted in all common areas that at least one occupant of each unit must be age 55 or older.

APPROVED by at least three fourths of the Board members this 26th day of May, 1999.
APPROVED by at least one half plus one of the members this 30th day of June, 1999.

DEL PRADO PARK TOWNHOUSES SENIOR CITIZEN CONDOMINIUM

[Signatures]

STATE OF FLORIDA
COUNTY OF LEE

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared FRANK P. ODLÉ and PHYLLIS V. EYER, personally known by me, who were not placed under oath, and who executed the foregoing instrument and acknowledged before me that they executed the same.

WITNESS my hand this 16th day of August, 1999.
Notary Public
AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM
OF
DEL PRADO PARK TOWNHOUSES CONDOMINIUM
CAPE CORAL, FLORIDA

(SUBLTANTIAL REWORDING OF DECLARATION, RULES AND REGULATIONS AND
BY-LAWS. PLEASE SEE ORIGINAL DECLARATION AS RECORDED IN OFFICIAL
REC0RD5 BOOK 581 AT PAGES 200-252; AS LATER AMENDED IN O.R. BOOK 1067,
PAGES 1622-1628; AS LATER AMENDED IN O.R. BOOK 1262, PAGES 422-423; AS
LATER AMENDED IN O.R. BOOK 1331, PAGE 1094; ALL IN THE PUBLIC RECORDS
OF LEE COUNTY, FLORIDA).

The Association, as representatives of the members in Del Prado Park Townhouses
Condominium, pursuant to the amendment powers contained in the Articles of Incorporation, the
Rules and Regulations, the By-Laws and Florida Statutes, after proper notice and discussion, and
after recommendation and approval, file these Amended and Restated Declaration of
Condominium, Rules and Regulations and Bylaws.

1. CONFIRMATION OF PRIOR STATEMENT OF CONDOMINIUM SUBMISSION: The
owners of units of Del Prado Park Townhouses Condominium, do hereby confirm the statements
of Condominium as reflected in the Public Records of Lee County, Florida as follows: Statement
of Condominium Submission, Official Record Book 581 at Pages 200-252, in the Public Records
of Lee County, Florida.

2. DEFINITIONS. The terms used in this Declaration and its exhibits shall have the meanings stated
below and in Chapter 718, Florida Statutes, unless the context otherwise requires.

2.1 "Member" means the record owner(s) of legal title to a unit.

2.2 "Assessment" means the share of the funds required for the payment of common expenses
which from time to time is assessed against each of the units.

2.3 "Association" means Del Prado Park Townhouses Condominium Association, Inc., a Florida
corporation not for profit, the entity responsible for the operation of this Condominium.

2.4 "Association Property" means all property, real or personal, owned or leased by the Association for
the use and benefit of the unit owners.

2.5 "Board of Directors" or "the Board" means the representative body which is responsible for
the administration of the Association's affairs, and is the same body referred to in the
Condominium Act as the "Board of Administration".

DEL PRADO PARK TOWNHOUSES - DECLARATION Page 1
2.6 "County" All references in the governing documents to "a County" or "the County" or to a specific Florida County are intended to refer to Lee County, Florida, and shall be construed to do so.

2.7 "Family" or "Single Family" means anyone of the following:

(A) One natural person.

(B) Two or more natural persons who commonly reside together as a single housekeeping unit, each of whom is related by blood, marriage or adoption to each of the others.

(C) Two or more natural persons meeting the requirements of (B) above, except that there is among them one person who is not related to some or all of the others.

2.8 "Fixtures" means items of tangible personal property which, by being physically annexed or constructively affixed to a unit, have become appurtenant to it and part and parcel of it, including but not limited to, interior partition walls, appliances which have been built in or permanently affixed, and plumbing fixtures in kitchens and bathrooms. Fixtures do not include floor, wall or ceiling coverings.

2.9 "Guest" means any person (other than the unit owner and his family) who is physically present in, or occupies any unit on a temporary basis at the invitation of the unit owner or other permitted occupant, without the payment of consideration.

2.10 "Institutional Mortgagee" means the mortgagee (or its assignee) of a mortgage encumbering a condominium parcel, which mortgagee is a bank, savings and loan association, mortgage company, insurance company, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, or any other institutional lender providing financing of acquisition, development or construction, or any agency of the United States of America. The term also refers to any holder of a mortgage against a condominium parcel, which mortgage is guaranteed or insured by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America or by any other public or private corporation engaged in the business of purchasing, guaranteeing or insuring residential mortgage loans, and their successors and assigns.

2.11 "Lease" means the grant by a unit owner of a temporary right of use of the owner's unit for valuable consideration.

2.12 "Limited Common Elements" means those common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

2.13 "Occupant" when used in connection with a unit, means a person who is physically present in a unit on two or more consecutive days, including staying overnight. "Occupy" means the act of staying overnight in a unit.
2.14 "Rules and Regulations" means the rules and regulations promulgated by the Board of Directors concerning the use of the common elements and the operation of the Association.

2.15 "Voting Interests" refers to the arrangement established in the condominium documents by which the owners of each unit are entitled to one vote in Association matters. The total number of units is forty two (42).

3. DESCRIPTION OF IMPROVEMENTS; SURVEY AND PLANS.

3.1 Survey and Plot Plans. Attached to the original Declaration and this Amended and Restated Declaration is Exhibit "A" as originally recorded in the Public Records of Lee County, and incorporated by reference herein, are a survey of the Land and plot plans, which graphically describe the improvements in which units are located, and which show all the units, including their identification numbers, locations and approximate dimensions and the common elements and limited common elements. Together with this Declaration, the exhibit is in sufficient detail to identify each unit, the common elements and limited common elements, and their relative locations and dimensions.

3.2 Unit Boundaries. Each unit's boundaries are described in the Declaration as originally recorded in the Public Records of Lee County, Florida and recited herein.

(A) Real Property. Each apartment, together with the space within it as shown on the "Architect's Plans" or survey plat attached as Exhibit "A" and together with all appurtenances thereto, shall, for all purposes, constitute a separate parcel of real property which may be owned in fee simple, and which may be conveyed, transferred and encumbered in the same manner as any other parcel of real property, independently of all other parts of the property, subject only to the provisions of this Declaration.

(B) Units. Units are those cubicles of space, together with all improvements constructed therein, as are further identified and described in the Plot Plan, which is attached as Exhibit "A" to this condominium declaration, the boundaries of which units shall be as follows:

1. Boundaries. Each unit shall be bounded as to both horizontal and vertical boundaries as below defined, whether the same exist now or are created by construction, settlement or movement of the building, or permissible repairs, reconstruction or alterations. Said boundaries are intended to be as follows and shall be determined in the following manner:

   a. Horizontal Boundaries. The upper and lower boundaries of the unit shall be;
   b. Upper boundaries - The planes formed by the under surfaces of the second story ceilings;
   c. Lower boundaries - The upper surface of the ground level floors.
   d. Vertical Boundaries. The vertical boundaries of the unit shall be:
e. Exterior Boundaries. The exterior of the outside walls of the building except where there is attached to or in existence as a part of the building a balcony, terrace, canopy or other attachment, in which event the boundaries shall be such as will include all such structures, and except where two units share a common or party wall, in which case the boundary shall be the interior surface of such wall.

4. CONDOMINIUM PARCELS; APPURTENANCES AND USE.

4.1 Shares of Ownership. The Condominium contains forty two (42) units. The schedule of percentages of ownership in common elements appurtenant to each unit in this condominium is as described in Exhibit "B" (included with this amended Declaration). Each unit owner shall be liable for a proportionate share of the common expenses shall be as set forth on Exhibit "B".

4.2 Appurtenances to Each Unit. The owner of each unit has certain rights and owns a certain interest in the condominium property, including without limitation the following:

(A) An undivided ownership share in the Land and other common elements of the Condominium and the common surplus of the Association, as specifically set forth in Section 4.1 above.

(B) Membership and voting rights in the Association, which shall be acquired and exercised as provided in the Articles of Incorporation and Bylaws of the Association.

C) The exclusive right to use the limited common elements reserved for the unit, and the non-exclusive right to use the common elements.

(D) An exclusive easement for the use of the airspace occupied by the unit as it exists at any particular time and as the unit may lawfully be altered or reconstructed from time to time. An easement in airspace which is vacated shall be terminated automatically.

(E) Other appurtenances as may be provided by law or by this Declaration and its exhibits.

(F) Certain assigned automobile parking spaces are limited common elements. The Association may regulate and may assign and designate parking spaces.

Each unit and its appurtenances constitutes a "condominium parcel."

4.3 Use and Possession. A unit owner is entitled to exclusive use and possession of his unit. He is entitled to use the common elements and common areas in accordance with the purposes for which they are intended, but no use may unreasonably interfere with the rights of other unit owners or other persons having rights to use the condominium property.
No unit may be divided or any fractional portion sold, leased or otherwise transferred. The use of the units, common elements, and limited common elements shall be governed by the condominium documents and by the rules and regulations adopted by the Association, through its Board of Directors, as set forth in the Bylaws.

5.1 Definition. The term "common elements" means all of the condominium property not included within the units, and includes without limitation the following:

(A) The Land.
(B) All portions of the buildings, amenities (i.e., pool, spa and gazebo) and other improvements on the Land not included within the units, including limited common elements.
(C) Easements through units for conduits, ducts, plumbing, wiring, and other facilities for furnishing utility services to units and the common elements.
(D) An easement of support in every portion of the condominium property that contributes to the support of a building or structure.
(E) The property and installations required for furnishing utilities and other services to more than one unit or to the common elements.

5.2 Easements. Each of the following easements and easement rights is reserved through the condominium property and is a covenant running with the land of the Condominium, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any land from the Condominium. None of the easements specified in this Section may be encumbered by any leasehold or lien other than those on the condominium parcels. Any lien encumbering these easements shall automatically be subordinate to the rights of unit owners with respect to such easements.

(A) Utility and other Easements. The Association has the power, without the joinder of any unit owner, to grant easements such as electric, gas, cable television, or other utility or service easements, or relocate any existing easements, in any portion of the common elements, and to grant access easements or relocate any existing access easements in any portion of the common elements, as the Association shall deem necessary or desirable for the proper Operation and maintenance of the Condominium. This power also includes a limited power to convey easements, as provided for in Chapter 73, Florida Statutes. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the units. The Association may also transfer title to utility-related equipment, facilities or material, and to take any other action to satisfy the requirements of any utility company or governmental agency to which any such utility-related equipment, facilities or material are to be so transferred.

(B) Encroachments. If any unit encroaches upon any of the common elements or upon any other unit for any reason other than the intentional act of the unit owner, or if any common element encroaches upon any unit, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.
(C) Ingress and Egress. A non-exclusive easement shall exist in favor of each unit owner and occupant, their respective guests and invitees for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portions of the common elements as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portions of the common elements as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways.

5.3 Restraint Upon Separation and Partition. The undivided share of ownership in the common elements and common surplus appurtenant to a unit cannot be conveyed or encumbered separately from the unit and passes with the title to the unit, whether separately described or not. No owner may maintain an action for partition of the common elements. A unit owner's interest in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to his unit.

6. LIMITED COMMON ELEMENTS.

6.1 Description of Limited Common Elements. Certain common elements have been or may be designated as limited common elements, reserved for the use of a particular unit or units, to the exclusion of the other units. The limited common elements and the units to which their use has been assigned are as described in this Declaration and as further identified on the original survey and plot plan.

   (A) Balconies, Terraces and Lanais. Any part of the common elements that is connected to and exclusively serves a single unit, and is specifically required in Section 9 of this Declaration to be maintained, repaired or replaced by, or at the expense of, the unit owner, shall be deemed a limited common element, whether specifically described above or not.

6.2 Exclusive Use. The exclusive right to use a limited common element is an appurtenance to the unit or units to which it is designated or assigned. The use right passes with the unit, whether separately described or not, and cannot be separated from it, unless otherwise provided herein.

7. ASSOCIATION.

The operation of the Condominium is by Del Prado Park Townhouses Condominium Association, Inc., a Florida corporation not for profit, which shall perform its functions pursuant to the following:

7.1 Delegation of Management. The Board of Directors may contract for the management and maintenance of the condominium property and authorize a manager or management company to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, keeping of records, enforcement of rules, and
maintenance and repair of the common elements with funds made available by the Association for such purposes. Any Management Company shall be engaged by written Contract. The Association and its Directors and officers shall, however, retain at all times the powers and duties provided in the Condominium Act.

7.2 Membership. The members of the Association are the owners of record legal title to the units, as further provided in the Bylaws.

7.3 Acts of the Association. Unless the approval or affirmative vote of the unit owners is specifically made necessary by some provision of the Condominium Act or the condominium documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors, without a vote of the unit owners. The officers and Directors of the Association have a fiduciary relationship to the unit owners. A unit owner does not have the authority to act for the Association by reason of being a unit owner.

7.4 Powers and Duties. The powers and duties of the Association include those set forth in the Condominium Act and in the condominium documents. The Association may contract, sue, or be sued with respect to the exercise or non-exercise of its powers and duties. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the condominium property and association property. The Association has the power to enter into agreements to acquire leaseholds, memberships and other possessory or use interests in lands or facilities contiguous to the lands of the Condominium, for the use and enjoyment of the unit owners.

7.5 Official Records. The Association shall maintain its official records as required by law. The records shall be open to inspection by members or their authorized representatives at all reasonable times. The right to inspect the records includes a right to make or obtain photocopies at the reasonable expense of the member seeking copies.

7.6 Purchase of Units. The Association has the power to purchase units in the Condominium and to acquire and hold, lease, mortgage, and convey them, such power to be exercised by the Board of Directors.

7.7 Acquisition of Property. The Association has the power to acquire property, real or personal. The power to acquire personal property shall be exercised by the Board of Directors. Except as provided in 7.6 above, the power to acquire interests in real property may be exercised by the Board of Directors, but only after approval by at least a majority of the voting interests.

7.8 Disposition of Property. Any property owned by the Association, whether real, personal or mixed, may be mortgaged, sold, or otherwise disposed of by the Board of Directors, without the prior authorization.

7.9 Roster. The Association shall maintain a current roster of names and mailing addresses of unit owners. A copy of the roster shall be made available to any member upon request.
8. ASSESSMENTS AND LIENS.

The Association has the power to levy and collect assessments against each unit and unit owner in order to provide the necessary funds for proper operation and management of the Condominium and for the operation of the Association, including regular assessments for each unit’s share of the common expenses as set forth in the annual budget, and special assessments for unusual, non-recurring or unbudgeted common expenses. The Association may also levy special charges against any individual unit for any amounts other than common expenses which are properly chargeable against such unit under this Declaration or the Bylaws. Assessments shall be levied and payment enforced as provided in the Bylaws and as follows:

8.1 Common Expenses. Common expenses include all expenses of the operation, maintenance, repair, replacement and protection of the common elements and association property, the expenses of operating the Association and any other expenses properly incurred by the Association for the Condominium, including any amounts budgeted to fund reserve accounts. The cost of water and sewer service to the units may be a common expense, unless the water and/or sewer service is separately metered, then it shall be borne by the individual owners and shall not be considered a common expense as set forth herein. If the Board of Directors enters into a contract for pest control or cable television services in bulk for all units, the cost of such services shall be a common expense.

8.2 Share of Common Expenses. The owner of each unit shall be liable for a share of the common expenses of the Association equal to his share of ownership of the common elements and the common surplus.

8.3 Ownership. Assessments collected by or on behalf of the Association become the property of the Association; no unit owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his unit. No owner has the right to withdraw or receive distribution of his share of the common surplus, except as otherwise provided herein or by law.

8.4 Who is Liable for Assessments. The owner of each unit, regardless of how title was acquired, is liable for all assessments or installments thereon coming due while he is the owner. Multiple owners are jointly and severally liable. Except as provided in Section 17.3 below, whenever title to a condominium parcel is transferred for any reason, the transferee is jointly and severally liable with the transferor for all monies owed by the transferor, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee.

8.5 No Waiver or Excuse from Payment. The liability for assessments may not be avoided or abated by waiver of the use or enjoyment of any common elements, by abandonment of the unit for which the assessments are made, or by interruption in the availability of the unit or the common elements for any reason whatsoever. No unit owner may be excused from payment of his share of the common expenses unless all unit owners are likewise proportionately excused from payment, except as provided below as to certain mortgagees.

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8.6 Application of Payments: Failure to Pay: Interest. Assessments and installments thereon paid on or before fifteen (15) days after the due date shall not bear interest, but all sums not paid by the fifteenth (15th) day shall bear interest up to the highest rate allowed by law, until paid. Assessments and installments thereon shall become due, and the unit owner shall become liable for the assessments or installments, on the date established in the Bylaws or otherwise set by the Association for payment. The Association may impose a late payment fee, in addition to interest, as allowed by law. All payments on account shall be applied first to interest, then to late payment fees and attorney's fees and costs, and finally to unpaid assessments as required by law. No payment by check is deemed received until the check has cleared.

8.7 Acceleration. If any special assessment or quarterly installment of regular assessments as to a unit becomes more than thirty (30) days past due and a Claim of Lien is recorded, the Association shall have the right to accelerate the due date of the entire unpaid balance of the unit's annual assessment and all special assessments for that fiscal year as if the balance had originally been due on the date the Claim of Lien was recorded. The Association's Claim of Lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorneys fees and costs as provided by law; and said Claim of Lien shall not be satisfied or released until all sums secured by it have been paid. The right to accelerate is exercised by sending to the delinquent owner a notice of the exercise, which notice shall be sent by certified or registered mail to the owner's last known address, and shall be deemed given upon mailing of the notice, postpaid. The notice may be given as part of the notice of intent to foreclose required by Section 718.116 of the Condominium Act, or may be sent separately.

8.8 Liens. The Association has a lien on each condominium parcel securing payment of past due assessments, including interest and reasonable attorney's fees and costs incurred by the Association incident to the collection of the assessment or enforcement of the lien, whether before, during or after a lien foreclosure suit. The lien is perfected upon recording a Claim of Lien in the Public Records of Lee County, Florida, stating the description of the condominium parcel, the name of the record owner, the name and address of the Association, the assessments past due and the due dates. The lien is in effect until barred by law. The Claim of Lien secures all unpaid assessments and charges coming due prior to a final judgment of foreclosure. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

8.9 Priority of Lien. Except as otherwise provided by law, the Association's lien for unpaid assessments shall be subordinate and inferior to the lien of any recorded first mortgage, unless the Association's Claim of Lien was recorded before the mortgage, but is superior to, and takes priority over, any other mortgage or lien regardless of when the mortgage or lien was recorded. Any lease of a unit is subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed.

8.10 Foreclosure of Lien. The Association may bring an action in its name to foreclose its lien for unpaid assessments in the manner provided in the Condominium Act, and may also bring an action to recover a money judgment for the unpaid assessments without waiving any lien rights.

8.11 Certificate As To Assessments. Within fifteen (15) days after request by a unit owner, unit purchaser or mortgagee, the Association shall provide a certificate stating whether all DEL PRADO PARK TOWNHOUSES- DECLARATION Page 9
assessments and other monies owed to the Association by the unit owner with respect to the condominium parcel have been paid. Any person other than the owner who relies upon such certificate shall be protected thereby.

9. MAINTENANCE: LIMITATIONS UPON ALTERATIONS AND IMPROVEMENTS
Responsibility for the protection, maintenance, repair and replacement of the condominium property, and restrictions on its alteration and improvement shall be as follows:

9.1 Association Maintenance. The Association is responsible for the protection, maintenance, repair and replacement of all common elements and association property (other than the limited common elements that are required elsewhere herein to be maintained by the unit owner). The cost is a common expense. The Association's responsibilities include:

(A) Electrical wiring up to the circuit breaker panel in each unit.
(B) Water lines, up to the individual unit cut-off valve. Notwithstanding however, if and when the water serving a unit is separately metered, then the Association's responsibility shall end at the meter.
(C) Sewer lines, up to the point where they enter the individual unit.
(D) All exterior building walls, including painting, waterproofing, and caulking.
(E) Roof repair and or replacement.
(F) The exterior surfaces of the main entrance door to each unit.
(G) All first floor sliding door window glass and related hardware and frames.

Maintenance is limited to replacing glass should it be broken by some source other than the owner, i.e. lawn mower throwing a stone, etc.

The Association's responsibility does not include interior wall switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within a unit and serving only that unit. All incidental damage caused to a unit or limited common elements by work performed or ordered to be performed by the Association shall be promptly repaired by and at the expense of the Association, which shall restore the property as nearly as practical to its condition before the damage, and the cost shall be a common expense unless the need for the work was caused by the unit owner. Regardless of the foregoing, the Association shall not be responsible for incidental damage to any alteration or addition to the common elements made by a unit owner or his predecessor in title.

9.2 Unit Owner Maintenance. Each unit owner is responsible, at his own expense, for all maintenance, repairs, and replacements of his own unit and of certain limited common elements.

(A) All screens and related screen supports, frames and related screen hardware.
(B) The interior surface of the entrance door to the unit and its interior surface.
(C) The electrical, mechanical and plumbing fixtures, switches, valves, drains and outlets (including connections) located partially or entirely within the unit and serving only the unit.
(D) The circuit breaker panel and all electrical wiring going into the unit from the panel.

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(E) Appliances, built-in cabinets, water heaters, smoke alarms and vent fans.
(F) All air conditioning and heating equipment, including the air conditioning compressors, thermostats, ducts and related installations serving the unit exclusively.
(G) Carpeting and other floor coverings.
(H) Shower pans.
(I) The main water supply shut-off valve for the unit.
(J) Other facilities or fixtures which are located or contained entirely or partially within the unit and serve only the unit.
(K) All interior partition walls which do not form part of the boundary of the unit.

9.3 Other Unit Owner Responsibilities:

(A) Balconies, lanais, porches, walkways, front entry way, etc. Where a limited common element consists of a lanai area, the unit owner who has the exclusive right to use the area shall be responsible for day-to-day cleaning and care of the walls, floor and ceiling bounding said area, if any; and all fixed glass and sliding glass doors in portions of the entrance way to said area, if any; and the wiring, electrical outlet(s) and fixture(s) thereon, if any, and the replacement of light bulbs.

The Association is responsible for the maintenance, repair and replacement of all exterior walls of the building and the concrete slabs. No lanai may be covered or enclosed in any way without the prior written approval of the Board of Directors. The maintenance, repair and replacement and insurance of such approved covering or enclosure is the responsibility of the unit owner. Maintenance, repair and replacement of all screening is the responsibility of the unit owner.

(B) Interior Decorating. The unit owner is responsible for all decorating within his own unit, including painting, wallpapering, paneling, floor covering, draperies, window shades, curtains, lamps and other light fixtures, and other furnishings and interior decorating.

(C) Window Coverings. The covering and appearance of windows and doors, installed within or outside of the unit and visible from the exterior of the unit, must be acceptable window coverings, i.e. verticals, blinds, draperies, shades, reflective film or a combination of said items.

(D) Modifications and Alterations. If a unit owner makes any modifications, installations or additions to his unit or to the common elements with or without association approval, the unit owner, and his successors in title, shall thereby become financially responsible for:

(1) insurance, maintenance, repair and replacement of the modifications, installations or additions; and
(2) all damages to other property or persons caused by such modifications, installations or additions; and

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(3) the costs of removing and replacing or reinstalling such modifications if their removal by the Association becomes necessary in order to maintain, repair, replace, or protect other parts of the condominium property; and
(4) damage to the modifications, installations or additions caused by work being done by the Association as a result of (3) above.
(5) the Association may require any owner desiring to make an alteration to agree to be responsible for the maintenance and repair thereof and any resulting loss occasioned by said alteration. Said Agreement, if any, shall be recorded in the lands records of Lee County.

(E) Use of Licensed and Insured Contractors. Whenever a unit owner contracts for maintenance, repair, replacement, alteration, addition or improvement of any portion of the unit or common elements, such owner shall be deemed to have warranted that his contractor(s) are properly licensed and fully insured, and that the owner will be financially responsible for any resulting damage to persons or property not paid by the contractor's insurance.

(F) Waterbeds & Jacuzzis. Waterbeds and Jacuzzis may be kept, placed or installed in any unit at the risk of the unit owner. Any damage to persons or property resulting from any leak or damage from any source whatsoever is the responsibility of the unit owner.

9.4 Alteration of Units or Common Elements by Unit Owners. No owner shall make or permit the making of any material alterations or substantial additions to his unit or the common elements, or in any manner change the exterior appearance of any portion of the Condominium, without the written approval of the Board of Directors, which approval may be denied if the Board of Directors determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, the Condominium in part or in whole. Any glass, screen, curtain, blind, shutter, awning, or other modifications, additions or installations which may be installed where visible from outside the unit, are subject to regulation by the Board of Directors. No owner may alter the landscaping of the common elements in any way without prior Board approval. The Board of Directors may revoke or rescind any approval of an alteration or modification previously given, if it appears that the installation has had unanticipated, adverse effects on the Condominium.

9.5 Alterations and Additions to Common Elements and Association Property. The protection, maintenance, repair, insurance and replacement of the common elements and association property is the responsibility of the Association and the cost is a common expense. Beyond this function, the Association shall make no material alteration of, nor substantial additions to, the common elements or real property owned by the Association costing more than $20,000 in the aggregate in any calendar year without prior approval of at least a majority of the voting interests. Alterations or additions costing less than this amount may be made with Board approval. If work reasonably necessary to protect, maintain, repair, replace or insure the common elements or association property also constitutes a material alteration or substantial addition to the common elements, no prior unit owner approval is required.
9.6 Enforcement of Maintenance. If after reasonable notice the owner of a unit fails to maintain the unit or its appurtenant limited common elements as required above, the Association may institute legal proceedings to enforce compliance, or may take any and all other lawful actions to remedy such violation, including but not limited to, entering the unit, with or without notice to or consent of the tenant or unit owner, to repair, replace, or maintain any common elements or of any portion of the unit to be maintained by the Association pursuant to this Declaration. Any expenses incurred by the Association in performing work within the unit as authorized by this Declaration shall be charged to the unit owner, together with reasonable attorney's fees and other expenses or collection, if any.

9.7 Negligence: Damage Caused by Condition in Unit. The owner of each unit shall be liable for the expenses of any maintenance, repair or replacement of common elements, other units, or personal property made necessary by his act or negligence, or by that of any member of his family or his guests, employees, agents, or tenants. Each unit owner has a duty to maintain his unit, any limited common element appurtenant to the unit (except those limited common elements required to be maintained by the Association), and personal property therein, in such a manner as to prevent foreseeable and reasonably preventable damage to other units, the common elements or the property of other owners and residents. If any condition, defect or malfunction, resulting from an owner's failure to perform this duty causes damage to other units, the common elements, association property or property within other units, the owner of the offending unit will be notified by the Association and shall be liable to the person or entity responsible for repairing the damaged property for all costs of repair or replacement not paid by insurance. If one or more of the units involved is not occupied at the time the damage is discovered, the Association may enter the unit without prior notice to the owner and take reasonable action to mitigate damage or prevent its spread. The Association may, but is not obligated to, repair the damage with the prior consent of the owner.

9.8 Association Access to Units. The Association has an irrevocable right of access to the units for the purposes of protecting, maintaining, repairing and replacing the common elements or portions of a unit to be maintained by the Association under this Declaration, and as necessary to prevent damage to one or more units. Each unit owner has the option of either providing an entry door key to the Association or providing the Association with the name and telephone number of an individual who does have an entry key.

9.9 Pest Control. The Association may supply pest control services for the inside of each unit, with the cost thereof being part of the common expenses. An owner has the option to decline such service unless the Association determines that such service is necessary for the protection of the balance of the Condominium, in which event the owner thereof must either permit the Association's pest control company to enter his unit or must employ a licensed pest control company to enter his unit on a regular basis to perform pest control services and furnish written evidence thereof to the Association. Because the cost of pest control services provided by the Association is a common expense, the election of an owner not to use the service shall not reduce the owner's assessments.

9.10 Hurricane Shutters. The installation of hurricane shutters is at the discretion of the Unit Owner and must conform to existing State and Federal standards.

DEL PRADO PARK TOWNHOUSES – DECLARATION Page 13
10. USE RESTRICTIONS.

The use of the units and the common elements shall be in accordance with the following provisions, as long as the Condominium exists:

10.1 Units. Each unit shall, at any time be occupied by only one family, its servants and guests, as a residence and for no other purpose. No business, commercial activity or profession may be conducted from any unit, nor may the name of the condominium or the address of any be publicly advertised as the location of any business. This restriction shall further not be construed to prohibit any owner from maintaining a personal or professional library, from keeping his personal, business or professional records in his unit, or from handling his personal, business or professional telephone calls or written correspondence in and from his unit. Such uses are expressly declared customarily incident to residential use. This Section 10.1 is, however, intended to prohibit commercial or business activity by a unit owner which would unreasonably disrupt the residential ambiance of the building, or make it obvious that a business is being conducted, such as by regular or frequent traffic in and out of the Condominium by persons making deliveries or pick-ups, by employees or other business associates, or by customers and clients.

10.2 Community for Older Persons - Fifty Five & Over Exemption.

A). Statement of Intent. It is hereby declared by Del Prado Park Townhouses Condominium Association, Inc., that the Association desires and intends to provide housing for older persons, as defined in the Fair Housing Amendments Act of 1988 and the Housing For Older Persons Act of 1995 (hereinafter referred to as the "Act") and the Federal Rules and Regulations (hereinafter referred to as the "Federal Regulations") as promulgated by the Department of Housing and Urban Development (hereinafter sometimes referred to as "HUD"). It is more specifically the desire and intention of this Association to meet the exemption for housing for older persons as is provided for in 24 CFR Part 100, Section 100.304 (hereinafter referred to as the "55 or Over Housing Exemption"). Section 100.304 implements Section 807(b)(2)(c) of the Act which exempts housing communities intended and operated for occupancy by at least one (1) person 55 years of age or over per unit that satisfy certain criteria. In this endeavor, the following occupancy restrictions and procedures shall govern. Further, in addition to these Amendments to the Declaration, the Association shall do whatever is required by the Act and Federal Regulations to publish its intention to comply with, and adhere to, policies and procedures which demonstrate an intent to provide housing for persons 55 years of age or over. The Act and Federal Regulations, as amended from time to time, are hereby incorporated by reference into this document. Reference to the Act and to the Federal Regulations in this document shall mean the Act and the Federal Regulations as they are amended from time to time. To the extent that any of these provisions relating to the Act appear to conflict with any language in the constituent documents governing Del Prado Park Townhouses Condominium Association, Inc., said provisions shall be deemed federally preempted by the Act, null and void and of no force or effect whatsoever.
(B). Fair Housing Definitions:

B(1). "ACT" shall mean and refer to the (Federal) Fair Housing Amendments Act of 1988 and the Housing for Older Persons Act of 1995 (Pub.L. 100-430, approved September 13, 1988; 102 STAT.1619.)

B(2). "FEDERAL REGULATIONS" shall mean and refer to the Federal rules and regulations promulgated by the Department of Housing and Urban Development.

B(3). "55 OR OVER HOUSING EXEMPTION" shall mean and refer to the exemption for housing for older persons (55 or over housing) as is provided for in Section 807(b)(2)(C) of the Act.

(C) Minimum Age Restrictions. Permanent occupancy of a unit shall be restricted as follows provided that the restrictions contained in the remaining provisions of this Section are met:

C(I). No persons under the age of eighteen (18) years shall be permitted to permanently reside in the units.

C(2). However, a person under the age of eighteen (18) years may be permitted to visit and temporarily reside in a unit for a period of time not to exceed thirty (30) days in the aggregate or fifteen (15) consecutive days in any calendar years. The visitation time periods shall not be cumulative from year to year. Only overnight visitation shall be considered in the computation. For example, if an under-aged person visits overnight, two (2) days of visitation shall be computed. If an under-aged person visits during the day only and does not stay overnight, no days of visitation shall be computed.

(D). Occupancy by Older Persons - Age 55.

D(1). Except for persons who are surviving spouses or cohabitants, recipients of legacy, or grandfathered-in as provided for in Section F below, no unit shall be occupied or be permitted to be occupied unless there is at least one (1) person occupying the unit who has attained the age of 55 years (hereinafter referred to as the "designated occupant"). This occupancy requirement shall not preclude temporary occupancy by guests or relatives of the designated occupant for periods not to exceed three months (90 days).

D(2). This Section shall guarantee that not less than 80% of all newly occupied units shall have a designated occupant residing in the unit who is at least 55. (See 55 and Over Decree)

(E). Guest Visitation Limitation. Use of units by the following guests of the designated occupant when the designated occupant is not present in the unit shall be restricted as follows: No guest shall use or occupy a unit in excess of three months (90 days). Each
day as well as part of a day shall be counted in this computation. This Section shall be in
addition to restrictions pertaining to guests which may be contained elsewhere in the
constituent documents and Rules and Regulations of the Association, as amended from
time to time. The designated occupant shall be considered to be not present in the unit
when the designated occupant does not stay overnight in the unit along with the guest.

E(1). A "guest" shall mean and refer to any non-family member who is visiting a
unit without requirement to contribute money, perform any services or provide
any other consideration to the owner in connection with such visit/occupancy. A
permanent occupant of a unit shall not be considered as a guest. Furthermore, an
owner of a unit shall never be considered a guest of the unit he or she owns,
unless the owner is visiting a lessee in the unit.

(F). Exceptions to Section D.

F(1). Grandfather Status. Section D above shall not apply to any persons who
have occupied or owned a unit prior to the date of this amendment, provided those
persons did not lease or sell said unit after the date of this amendment. In any
lease or sale after the date of this amendment, the owner and new occupant shall
be subject to the provisions provided elsewhere herein.

F(2). Surviving Spouse or Cohabitant. Section D shall not be applicable in the
case of the death of the designated occupant whose surviving spouse or cohabitant
is under 55 years of age provided that the surviving spouse or cohabitant resided
with the designated occupant at the time of the designated occupant's death.
Under such circumstances, the surviving spouse or cohabitant shall be allowed to
continue to occupy the unit irrespective of age so as to prevent disruption of the
lives of surviving spouses and cohabitants under age 55, when the over 55
designated occupant dies or otherwise leaves the unit.

F(3). Recipient of Legacy. The Federal Regulations recognize that the 20%
requirement is not intended to exclude all incoming households, therefore Section
D shall not be applicable in the event that an owner of a unit dies and the unit is
inherited by an individual who is under 55 years of age, the recipient of legacy
and his or her household shall be allowed to occupy the unit.

(G). Contract/Covenant. Every Owner shall be deemed to have a contract with the
Association to ensure that the occupancy requirement in Section D is met at all times.
Even though this occupancy requirement is a contract between the Association and the
Owner, this amendment shall be deemed to be a covenant running with the land.
Furthermore, the Owner shall be responsible to ensure that his/her lessee(s) comply with
this occupancy requirement.

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(H). Proof of Age.

H(1). All persons occupying units after the date of this amendment shall deliver to the Association, a completed Association form demonstrating proof of age and any other documentation required by the Association.

H(2). Any person(s) not providing such documentation, when and as requested by the Board of Administration, shall be validly presumed by the Association and by a Court of law to be under the age of 55 years, even though the persons may actually be 55 years of age or over.

(I). Remedies for Non-Compliance. The Association concurrently shall have any one or more of the following remedies for non-compliance in addition to those provided elsewhere in the constituent documents.

I(1). Lease of a Unit.

a. In the event an owner wishes to rent or lease their unit, the tenant must conform to the requirements of this section which shall include requiring one of tenants to be a qualifying resident being at least 55 years of age or older. In the event of a lease of a unit, and the occupancy and other requirements of this amendment are not met, the Association shall be entitled to file for and obtain an injunction against the Owner of the unit and lessee(s) and/or other occupants on the unit, removing the unauthorized lessee(s) and/or other unauthorized occupants.

b. The Association shall notify the Owner of the unit to take appropriate action to remove unauthorized occupants. If the Owner does not comply the Association will be entitled to evict the unauthorized lessee(s) and other unauthorized occupants on the unit, as agent for the Owner(s). This right of eviction by the Association shall apply only:

1. After the expiration of seven (7) working days from the date on which the Association mails notice to the Owner(s) by certified mail, return receipt requested, or provides notice by hand delivery; and

2. Provided that the Owner(s) fail(s) to commence eviction proceedings on his/her/their own and fails to so notify the Association, within the seven (7) day period.

3. The lease shall specify, and if it fails to so specify the lease shall be deemed to specify, that the lessee(s) and all other occupants shall abide by the constituent documents for Del Prado Park Townhouses Condominium Association, Inc., and the Rules and Regulations of the Association; and shall specify that the Association has the remedies provided for in this Section. Costs and attorney's fees incurred by the Association in connection with the exercise of its remedies...
under this Section provided that the Association prevails, shall be the responsibility of the Owner(s) of the unit, and shall to the extent awarded by a Court under Chapter 83, Florida Statutes, shall also be the responsibility of the lessee(s).

I(2). Other Occupancies (other than Leases). In the event of an existing ownership; in the event of use by guests; or in the event of a sale, gift, or other transfer of title; and the occupancy requirements of this amendment are not met, the Association may disapprove the transfer and shall be entitled to file for and obtain an injunction against the Owner(s) of the unit and all occupants in the unit, removing the unauthorized occupants (including the Owner(s). In that event, if the Association prevails, the Owner(s) shall be responsible for costs and attorney's fees incurred by the Association in connection with its enforcement of this Section.

J. Registration Required. All Owners, lessees and occupants must register with the Association at the time of becoming a member of the Association or, in the case of a non-owner, at the time of the commencement of the lease agreement, by delivery of the items referred to below. Furthermore, no persons shall attain grandfather status under Section F(I) above unless the person registers with the Association by delivery of the items referred to below. These items are as follows:

J(1). A fully completed and signed Association interview form to be provided by the Association; and

J(2). Documentation demonstrating proof of age as provided for in Section I above; and

J(3). It shall be the responsibility of the particular Owner, not the Association, to provide the lessee(s) and/or other occupants of the unit with the registration form for the lessee(s) occupant(s) to complete and return to the Association within five (5) days from the date of receipt.

K. Additional Occupants. Even though a person under the age of 55 years is given grandfather status under Section F(I) above or is provided with an exception under Section F(2) above, this shall not entitle additional persons to occupy the unit after the date of this amendment, unless:


(1). Notwithstanding any other provision in this Declaration, to the contrary, the following shall apply: Upon the affirmative vote of two-thirds (2/3) of the Owner's voting interests of the Association which vote may be evidenced by written agreement or consent, present and voting at a duly called meeting, anyone or more of the following amendments to this Declaration may be approved and become effective.

(i) Any amendment which is necessary to enable Condominium to attain or retain the "55 or Over Housing Exemption" of the Act.

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(ii) Any amendment which is necessary to refine those amendments approved by the Association relating to the Act and/or Federal Regulations.

(iii) Any amendment which is necessary to delete any or all amendments approved by the Association relating to the Act and/or Federal Regulations.

(iv) Any amendment which is made which otherwise relates to the Act and/or Federal Regulations.

(v) Any amendment which may be required due to regulations adopted from time to time by the Federal National Mortgage Association (FNMA).

10.3 Nuisances. No owner shall use his unit, or permit it to be used, in any manner that is unreasonably disturbing, detrimental or a nuisance to the occupants of another unit, or which would not be consistent with the maintenance of the highest standards for a first class residential condominium, nor permit the premises to be used in a disorderly or unlawful way. The storage of flammable, combustible, explosive fluids, gases, chemicals or substances, other than for bonafide life support systems or gas grills, is not permitted anywhere on condominium property. Owners of gas grills are also exempt as long as they adhere to the 7 foot rule...all grills must be 7 feet from any wall or fence. The use of each unit shall be consistent with existing laws, the governing documents and the condominium documents, and occupants shall at all times conduct themselves in a peaceful and orderly manner and observe all rules and regulations and By-laws.

10.4 Signs. No person may post or display any signs, banners, and the like, anywhere outside the unit on the condominium property, including "For Sale," "For Rent," "Yard Sale" and other similar signs. If any sign is erected in violation of this provision, the Association shall have the right to remove it. Under limited circumstances and with the prior approval of the Board, "Open House" signs may be permitted.

10.5 Motor Vehicles:

A. Parking. No motor vehicle shall be parked anywhere on the condominium property except in designated parking areas. No commercial use trucks or vehicles, other than service vehicles temporarily present on business, nor any trailers, may be parked on the condominium property. Boats, boat trailers, trailers, semitrailers, house trailers, campers, travel trailers, mobile homes, motor homes, recreational vehicles, and the like, and any vehicles not in operable condition or validly licensed, may not be kept on the condominium property parking areas. For the purpose of the foregoing sentence, the term "kept" shall mean present for either a period of six (6) consecutive hours or overnight, whichever is less.

B. No vehicle, which is not currently licensed or cannot operate on its own power shall remain on the premises for more than twenty-four (24) hours. As used in this section, the term licensed shall mean that the vehicle displays, at all times, a license plate or license
tag to which is affixed a sticker indicating that the vehicle is currently registered with the State of Florida or other state as the case may be. The Board, or any of the Board’s agents, who has reasonable cause to believe that a vehicle is unable to operate on its own power shall affix a sticker thereto notifying the owner of the vehicle that it is considered to be in violation of the condominium rules and regulations. The owner of such vehicle shall have twenty-four (24) hours from the date and time affixed to the sticker to respond to the Board or its agent and demonstrate that the vehicle can operate on its own power. If the owner cannot so demonstrate or if the owner does not contact the Board, the vehicle may be towed at the owner’s expense.

C. A speed limit of ten (10) miles per hour applies through the condominium roadway. Unnecessary vehicle noises are to be avoided within the grounds.

D. Vehicle maintenance is not permitted on the condominium property. For purposes of this section, vehicle maintenance shall include, but not be limited to, changing of oil and other fluids, engine maintenance or repair, body maintenance or repair. Cleaning the interior of the vehicle, waxing and checking fluid levels is permissible. Exterior vehicle washing is permitted. Emergency repairs to vehicles is allowed (flat tire).

E. In order to ensure the accessibility to the condominium property by fire, ambulance and other emergency personnel, the Board of Directors shall have the authority to establish parking policies. Said restrictions shall become enforceable upon providing each owner with notice thereof either through written notice to the owners or the posting of signs.

10.6 Outdoor Cooking and Barbequing. Individual barbeque grills shall be permitted as long as Owners and renters abide by the rule of placing the barbeque grill 7' away from any exterior building wall.

11. SALES OR LEASING OF UNITS.

All sales agreements or leases of units or rentals of units must be in writing. A unit owner may sell, lease or rent only his entire unit, and then only in accordance with this Section. No owner or single entity may acquire more than one (1) unit effective with the filing date of this revised and amended Declaration. The privilege to rent or lease may be revoked by the Board of Directors if it is abused by the unit owner, or the owner fails or refuses to follow the required rules and regulations set forth. This is to include the 55 and over age requirement and the No Pet rule.

11.1 Term of Lease and Frequency of Leasing. The lease or rental term cannot be less than 30 days nor can the rental term exceed 10 months. The same rules and regulations that apply to Owners will also apply to renters. The Owner has the responsibility of ensuring all requirements are adhered to by their tenants.

11.2 Regulation by Association. All of the provisions of the condominium documents and the rules and regulations of the Association shall be applicable and enforceable against any person occupying a unit as a lessee, tenant, or guest to the same extent as against the owner.

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The Owner may require lessees or tenants to post a security deposit as provided by law to protect against damage to the common elements. The Owner’s lease agreement shall contain a covenant, on the part of each occupant to abide by the rules and regulations of the Association and the provisions of the condominium documents. The Owner has the authority to terminate any lease agreement and evict the tenants in the event of breach of such covenant. It shall be deemed to be included in every lease or rental agreement, whether oral or written, and whether specifically expressed in such agreement or not.

11.3 The Board of Directors shall have the authority to approve all sales, leases or rentals and renewals thereof, which authority may be delegated to a committee of unit owners. The Board shall have the authority to promulgate or use a uniform lease or rental application and require such other information from the proposed tenant as is appropriate under the circumstances. The Board shall have the right to delegate the screening of proposed tenants to a committee, or a commercial tenant screening concern. The Association may charge a fee for consideration of lease applications which shall not exceed the maximum fee prescribed by law.

(A) As a condition of renting a unit, the Owner may require the posting of a security deposit for damages to the common elements as provided by law. The Owner must also arrange for an interview appointment between the proposed renter and the Board prior to leasing the unit. An interview form must be completed and provided to the Board.

12. INSURANCE.

In order to adequately protect the Association and its members, insurance shall be carried and kept in force at all times in accordance with the following provisions:

12.1 By the Unit Owner. Each unit owner is responsible for insuring his own unit, and the personal property therein. Each unit owner is expected to carry insurance or recognize that he bears financial responsibility for any damage to his property or liability to others that would otherwise be covered by such insurance. Flood insurance required by Mortgage companies or owner personal choice is the responsibility of the Unit Owner. The Association does not carry a separate flood insurance policy.

12.2 Association Insurance: Duty and Authority to Obtain. The Board of Directors shall obtain and keep in force the insurance coverage which it is required to carry by law and under the condominium documents, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the unit owners without naming them, and their mortgagees, as their interests shall appear. To the extent permitted by law, the Association may self insure.

12.3 Required Coverage. The Association shall maintain adequate insurance covering the buildings and other improvements on the condominium property that the Association is required to insure, as well as all association property, in such amounts, and with such deductibles, as is determined annually by the Board of Directors in the exercise of its good business judgment, such insurance to afford at least the following protection:

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(A) Property. Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by what is commonly known as an "all risk" property contract.

(B) Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross liability endorsement to cover liabilities of the unit owners as a group to a unit owner.

(C) Statutory Fidelity Bond. The Association shall require all persons disbursing or controlling Association funds to be properly bonded.

12.4 Optional Coverage. The Association may purchase and carry other such insurance coverage as the Board of Directors may determine to be in the best interest of the Association and unit owners. Some of the more common options include:

(A) Broad Form Comprehensive General Liability Endorsement.
(B) Directors and Officers Liability.
(C) Medical Payments.
(D) Leakage, seepage and wind-driven rain.
(E) Endorsement for loss by operation of local ordinance.

12.5 Description of Coverage. A detailed summary of the coverage included in the master policies, and copies of the master policies, shall be available for inspection and copying by unit owners or their authorized representatives upon request.

12.6 Waiver of Subrogation. If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claim against the unit owners, or their respective servants, agents or guests, except for any claim based upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

12.7 Insurance Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the unit owners and their mortgagees as their interests may appear, and all proceeds from policies purchased by the Association shall be payable only to the Association. The duty of the Association shall be to receive such proceeds as are paid, and to hold the same in trust, and disburse them for the purposes stated herein and for the benefit of the unit owners and their respective mortgagees in the following shares:

(A) Common Elements. Proceeds on account of damage to common elements shall be held in as many undivided shares as there are units, the shares of each unit owner being the same as his share in the common elements.

(B) Units. Proceeds received on account of damage within the units shall be held in
prorated shares, based on the amount of damage within each damaged unit as a percentage of the total damage within all units.

(C) Mortgagee. If a mortgagee endorsement has been issued as to a unit, the shares of the mortgagee and the unit owner shall be as their interests appear. No mortgagee shall have the right to require application of insurance proceeds to any mortgage it may hold against a unit, unless insurance proceeds on account of damage to that unit are not used for repairs, or the proceeds exceed the actual cost of repairs or reconstruction. Except as otherwise expressly provided, no mortgagee shall have the right to participate in determining whether improvements will be repaired or reconstructed after casualty.

(D) Deductibles. The policies may provide for reasonable deductibles. In the case of property insurance, the deductible shall be paid by the party who would be liable for the loss or responsible for repairs in the absence of insurance. If multiple parties would be responsible, the deductible shall be allocated among them in proportion to the amount each party's loss bears to the total.

12.8 Distribution of Proceeds. Insurance proceeds from Association policies shall be distributed to or for the benefit of the unit owners in the following manner:

(A) Costs of Protecting and Preserving the Property. If a person other than the person responsible for repair and reconstruction has properly advanced funds to preserve and protect the property to prevent further damage or deterioration, the funds so advanced shall first be repaid, with interest if required.

(B) Cost of Repair or Reconstruction. If the damage for which the proceeds are paid is to be repaired or reconstructed the remaining proceeds shall be paid to defray the Costs as provided in Sections 12.7 (A) and (B) above. Any proceeds remaining after repairs and reconstruction shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being paid jointly to them.

(C) Failure to Repair or Reconstruct. If it is determined in the manner elsewhere provided herein that the damages for which the proceeds are paid shall not be reconstructed or repaired, the proceeds on account of that damage shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being payable jointly to them.

12.9 Association as Agent. The Association is hereby irrevocably appointed as agent for each unit owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the condominium property.

13. REPAIR OR RECONSTRUCTION AFTER CASUALTY.

If any part of the condominium property is damaged by casualty, whether and how it shall be reconstructed or repaired shall be determined as follows:

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13.1 Damage to Units. Where loss or damage occurs within one or more units, any Association insurance proceeds on account of the loss or damage shall be distributed to the owner(s) of the damaged units in shares as provided in Section 12.7 above. The owner(s) of the damaged units shall be responsible for reconstruction and repair, and no other person, including the Association, is liable for the cost thereof in the absence of legal fault.

13.2 Damage to Common Elements - Less than "Very Substantial". Where loss or damage occurs to the common elements, but the loss is less than "very substantial", as hereinafter defined, it shall be mandatory for the Association to repair, restore and rebuild the damage caused by the loss, and the following procedures shall apply:

(A) The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair and restoration, and shall negotiate and contract for repair and reconstruction.

(B) If the proceeds of insurance and available reserves are insufficient to pay for the cost of repair and reconstruction of the common elements, the Association shall promptly, upon determination of the deficiency, levy a special assessment against all unit owners in proportion to their shares in the common elements for the deficiency. Such special assessments need not be approved by the unit owners. The proceeds from the special assessment shall be added to the funds available for repair and restoration of the property.

13.3 "Very Substantial" Damage. As used in this Declaration, the term "very substantial" damage shall mean loss or damage caused by a common occurrence whereby at least three-fourths (3/4ths) of the total units cannot reasonably be rendered habitable within sixty (60) days. Should such "very substantial" damage occur:

(A) The Board of Directors and the officers, or any of them, are authorized, regardless of any other provision of this Declaration, to take such action as may reasonably appear to be necessary under emergency conditions, as further provided in Section 3.16 of the Bylaws. This authority includes actions to protect life and property, to evacuate or shore-up structures and salvage property, to engage security to protect against looting or other criminal acts, and to alter the condominium property or association property as might be reasonable under the circumstances to protect the condominium property or association property from further damage or deterioration. This authority includes the authority to expend any and all available association funds, including reserves.

(B) The Board of Directors shall endeavor to obtain comprehensive, detailed estimates of the cost of repair and restoration.

(C) A meeting of the members shall be held not later than sixty (60) days after the Board has obtained the estimates, to determine the opinion of the membership with reference to rebuilding or termination of the Condominium, subject to the following:
(1) If the insurance proceeds, reserves and other association funds available for the restoration and repairs that are the Association's responsibility are sufficient to cover the estimated cost thereof so that it is reasonably anticipated that the repairs and reconstruction can be accomplished without levying a special assessment that exceeds fifteen percent (15%) of the total annual budget for the condominium in the year in which the casualty occurred, the Condominium shall be repaired and reconstructed unless at least two-thirds (2/3rds) of the total voting interests of the Condominium vote for termination, in which case the Condominium shall be terminated.

(2) If upon the advice of legal counsel and construction experts, it appears unlikely that the then applicable zoning or other regulatory laws will allow reconstruction of the same number and general types of units; or if the insurance proceeds, reserves and other association funds available for restoration and repair are not sufficient to cover the estimated cost thereof, and it is reasonably anticipated that the repairs and reconstruction can be accomplished only by levying special assessments exceeding fifteen percent (15%) of the total annual budget for the Condominium in the year in which the casualty occurred, the Condominium shall be terminated, and the property removed from the provisions of the Condominium Act, unless at least two-thirds (2/3rds) of the total voting interests of the Condominium vote against termination. If the requisite number of unit owners vote against termination, the Board of Directors shall levy such assessments as are necessary, and shall proceed with the necessary repairs and restoration. The proceeds from the special assessments shall be added to the funds available for repair and reconstruction.

(D) If any dispute shall arise as to whether "very substantial" damage has occurred, or as to the amount of special assessments required, a determination by at least two-thirds (2/3rds) of the Directors shall be conclusive and binding upon all persons.

13.4 Application of Insurance Proceeds. It shall always be presumed that monies disbursed for repair and reconstruction come first from insurance proceeds; if there is an excess of insurance proceeds left in the funds held by the Association after the payment of all costs of repair, and reconstruction, such balance shall be distributed to the unit owners, except as otherwise provided in Section 12.7(C) above.

13.5 Equitable Relief. In the event of damage to the common elements which renders any unit uninhabitable, if repairs and reconstruction are not begun and completed within a reasonable period of time, the owner of the uninhabitable unit may petition a court for equitable relief, which may include termination of the Condominium and partition of the former condominium property. For purposes of this provision, it shall be conclusively presumed that repair and reconstruction has begun and been completed within a reasonable period of time if substantial work is commenced within six (6) months following the damage or destruction, and is completed within nine (9) months thereafter.
13.6 Plans and Specifications. Any repairs or reconstruction must be substantially in accordance with the plans and specifications for the original buildings, or according to different plans and specifications approved by the Board of Directors, by the owners of at least three-fourths (3/4ths) of the units and by the mortgagee, if any. Such approvals may not be unreasonably withheld. However, no change in plans and specifications shall materially reduce the interior floor space of any unit without the consent of the unit owner and his institutional mortgagee, if any.

13.7 Deposit of Awards with Association. The taking of all or any part of the condominium property by condemnation or eminent domain shall be deemed to be a casualty to the portion taken. Awards for the taking shall be deemed to be proceeds from insurance on account of the casualty. Even though the awards may be payable to unit owners, the unit owners shall deposit the awards with the Association; and if any fail to do so, a special charge shall be made against a defaulting unit owner in the amount of his award, or the amount of that award shall be set off against any sums payable to that owner.

13.8 Determination Whether to Continue Condominium. Whether the Condominium will be continued after a taking by condemnation or eminent domain will be determined in the same manner provided for determining whether damaged property will be repaired or reconstructed or after a casualty.

13.9 Disbursement of Funds. If the Condominium is terminated, the proceeds of all awards and other payments will be deemed association property and shall be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after a casualty. If the Condominium is not terminated, but the size of the Condominium will be reduced, the owners of units to be diminished or eliminated, if any, will first be made whole, and any property damaged by the taking will be made usable in the manner provided below. Proceeds of awards and special assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursements of funds after a casualty.

14.0 Association as Agent. The Association is hereby irrevocably appointed as each unit owner’s attorney-in-fact for purposes of negotiating or litigating with a condemning authority for the purpose of realizing just compensation.

14.1 Units Reduced but Habitable. If the size of a unit must be reduced, and the remaining portion of the unit can be made habitable, the awards for the taking of a portion of that unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

(A) Restoration of Unit. The unit shall be made habitable. If the cost of doing so exceeds the amount of the award, the additional funds required shall be paid by the owner of the unit.

(B) Distribution of Surplus. The balance of the award, if any, shall be distributed to the owner of the unit and to each mortgagee of the unit, the remittance being made payable jointly to the owner and mortgagees.
14.2 Unit Made Not Habitable. If the condemnation is of an entire unit or reduces the size of a unit so that it cannot be made habitable, the award for the taking of the unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

(A) Payment of Award. The award shall be paid to the owner of the unit and to each mortgagee of the unit as their interests may appear, the remittance being made payable jointly to the owner and mortgagee(s).

(B) Addition to Common Elements. If possible and practical, any remaining portion of the unit shall become part of the common elements and shall be placed in condition for use by some or all unit owners in a manner approved by the Board of Directors.

(C) Adjustment of Shares in Common Elements. The shares in the common elements appurtenant to the units that continue as part of the Condominium shall be adjusted to equitably distribute the ownership of the common elements among the changed number of units.

(D) Assessments. If the award to the Association for damage to the common elements resulting from a taking is not sufficient to pay the cost of converting the remaining portions of the unit for use as a part of the common elements, the additional funds required for those purposes shall be raised by special assessment against all unit owners who will continue as owners of units after the changes in the Condominium affected by the taking. The assessments shall be made in proportion to the shares of those owners in the common elements after the changes affected by the taking.

14.3 Taking of Common Elements. Awards for the taking of common elements only shall be used to make the remaining portion of the common elements usable in a manner approved by the Board of Directors. The balance of such awards, if any, shall become part of the common surplus.

14.4 Amendment of Declaration. Any changes in units and in the common elements, in the ownership of the common elements, and in the sharing of common expenses that are necessitated by condemnation or eminent domain shall be accomplished by amending this Declaration and Exhibit "A" in conformity to the changes mandated above. Such amendments need be approved only by the owners of a majority of the units. Approval of, or joinder by, lien holders is not required for any such amendment.

15. TERMINATION.
The Condominium may be terminated in the following manner:

15.1 Agreement. The Condominium may be terminated at any time by written agreement of the owners of at least three-fourth; (3/4ths) of the units, and the Mortgagees.

15.2 Very Substantial Damage. If the Condominium suffers "very substantial damage" to the extent defined in Section 13.3 above, and it is not decided as therein provided that the DEL PRADO PARK TOWNHOUSES- DECLARATION Page 27
Condominium will be reconstructed or repaired, the condominium form of ownership of the property in this Condominium will be terminated.

15.3 Certificate of Termination. The termination of the Condominium by either of the foregoing methods shall be evidenced by a Certificate of Termination, executed by the President or Vice-President with the formalities of a deed, and certifying as to the facts effecting the termination. The certificate shall also include the name and address of a Florida financial institution with trust powers, or a licensed Florida attorney, who is designated by the Association to act as Termination Director, and shall be executed by the Director indicating willingness and ability to serve in that capacity. Termination of the Condominium occurs when a Certificate of Termination meeting the requirements of this Section is recorded in the Public Records of Lee County, Florida. The recording of that Certificate of Termination automatically divests the Association and all unit owners of legal title, and vests legal title in the Termination Director named in the Certificate of Termination, to all real and personal property which was formerly the condominium property or association property, without need for further conveyance. Beneficial title to the former condominium and association property is owned by the former unit owners as tenants in common, in the same undivided shares as each owner previously owned in the common elements. Upon termination, each lien encumbering a condominium parcel shall be automatically transferred to the equitable share in the condominium property attributable to the unit encumbered by the lien, with the same priority.

15.4 Wind-up of Association Affairs. The termination of the Condominium does not, by itself, terminate the Association. The former unit owners and their successors and assigns shall continue to be members of the Association, and the members of the Board of Directors and the officers of the Association shall continue to have the powers granted in this Declaration, and in the Articles of Incorporation and Bylaws, for the purpose of winding up the affairs of the Association. The Termination Director shall hold title to the property for the benefit of the former unit owners and their successors, assigns, heirs, devisees, mortgagees and other lien holders, as their interests shall appear. If the former unit owners approve a sale of the property as provided in this Section, the Termination Director shall have the power and authority to convey title to the real property, and to distribute the proceeds in accordance with the provisions of this Section.

The Termination Director shall be entitled to reasonable fees for acting in such capacity, and such fees, and all costs and expenses incurred by the Termination Director in the performance of its duties, shall be paid by the Association or paid from the proceeds of the sale of the former condominium and Association property, or other Association assets, and shall constitute a lien on the property superior to any other lien. The Director shall be entitled to indemnification by the Association from any and all liabilities and costs incurred by virtue of acting as Termination Director unless such liabilities are the result of gross negligence or malfeasance.

The Termination Director may rely upon the written instructions and information provided to it by the officers, Directors and agents of the Association, and shall not be required to inquire beyond such information and instructions. In the event of the resignation or incapacity of the
Director, a successor Director may be appointed by the Circuit Court of the county in which the Condominium is located on the petition of the Association.

15.5 Partition: Sale. Following termination, the former condominium property and association property may be partitioned and sold upon the application of any unit owner. If following a termination, at least seventy-five percent (75%) of the voting interests agree to accept an offer for the sale of the property, the Board of Directors shall notify the Termination Director, and the Director shall complete the transaction. In that event, any action for partition of the property shall be held in abeyance pending the sale, and upon the consummation of the sale shall be discontinued by all parties thereto. If the unit owners have not authorized a sale of the former condominium and association property within 1 year after the recording of the Certificate of Termination, the Director may proceed to sell the property without agreement by the former unit owners. The proceeds of the sale of any of the property or assets of the Association shall be distributed by the Termination Director to the beneficial owners thereof, as their interests shall appear.

15.6 New Condominium. The termination of the Condominium does not bar creation of another Condominium including all or any portion of the same property.

15.7 Provisions Survive Termination. The provisions of this Section 15 are covenants running with the land, and shall survive the termination of the Condominium until all matters covered by those provisions have been completed. The Board of Directors shall continue to function in accordance with the Bylaws and Articles of Incorporation, and shall have the power to levy assessments to pay the costs and expenses of maintaining the property until it is sold. The costs of termination, the fees and expenses of the Termination Director, as well as post-termination costs of maintaining the former condominium property and winding up the affairs of the Association, are common expenses, the payment of which shall be secured by a lien on the beneficial interest owned by each former unit owner, which to the maximum extent permitted by law, shall be superior to, and take priority over, all other liens.

16. OBLIGATIONS OF OWNERS.

16.1 Duty to Comply Right to Sue. Each unit owner, his tenants and guests, and the Association shall be governed by and shall comply with the provisions of the Condominium Act, the Declaration, the documents creating the Association, the Bylaws and the Rules and Regulations. Actions for damages or for injunctive relief, or both, for failure to comply may be brought by the Association or by a unit owner against:

(A) The Association;
(B) A unit owner;
(C) Anyone who occupies a unit; or
(D) Any member of the Board of Directors who willfully and knowingly fails to comply with these provisions.

DEL PRADO PARK TOWNHOUSES- DECLARATION Page 29
16.2 Waiver of Rights. The failure of the Association or of a member to enforce any right, provision, covenant or condition which may be granted by the condominium documents shall not constitute a waiver of the right of the Association or member to enforce such right, provision, covenant or condition in the future. A provision of the Condominium Act may not be waived by a unit owner if the waiver would adversely affect the rights of the owner or defeat the purpose of the provision, except that unit owners or Directors may waive notice of specific meetings as provided in the Bylaws. Any written instrument or instruction given by a prospective purchaser or unit owner to an escrow agent may be relied upon by the escrow agent, whether or not such instruction and the payment of funds there under might otherwise constitute a waiver of any provision of the Condominium Act.

16.3 Attorney’s Fees. In any legal proceeding arising out of an alleged failure of a tenant, unit owner or the Association to comply with the requirements of the Condominium Act or the condominium documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys fees as may be awarded by the court.

16.4 No Election of Remedies. All rights, remedies and privileges granted to the Association or unit owners under any terms, provisions, covenants, or conditions of the condominium documents shall be deemed to be cumulative, and the exercise of anyone or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising such other additional rights, remedies, or privileges as may be granted by the condominium documents, or at law or in equity.

17. RIGHTS OF MORTGAGEEES.

17.1 Approvals. Written consent of the institutional mortgagee of a unit shall be required for any amendment to the Declaration which would decrease the percentage interests of the unit in the ownership of the common elements, except as provided otherwise.

17.2 Notice of Casualty or Condemnation. In the event of condemnation, eminent domain proceedings, or very substantial damage to, or destruction of, any unit or any part of the common elements, the record holder of any first mortgage on an affected unit shall be entitled to notice.

17.3 Mortgage Foreclosure. If the mortgagee of a first mortgage of record acquires title to a condominium parcel as a result of foreclosure of the mortgage, or by a deed given in lieu of foreclosure, the liability of the mortgagee for the share of common expenses or assessments attributable to the condominium parcel, or chargeable to the former owner of the parcel, which came due prior to the mortgagee’s acquisition of title shall be governed by the Condominium Act, as it may be amended from time to time. Any unpaid share of common expenses for which such acquirer is exempt from liability becomes a common expense collectible from all unit owners, including the acquirer and his successors and assigns. No owner or acquirer of title to a condominium parcel by foreclosure (or by a deed in lieu of foreclosure) may during his period of ownership, whether or not the parcel is occupied, be excused from the payment of any assessments coming due during the period of such ownership.
17.4 Redemption. If proceedings are instituted to foreclose any mortgage or lien on any unit, the Association, on behalf of one or more unit owners and with the permission of the mortgagee, may redeem the mortgage or lien for the amount due thereon and be thereby subrogated to all of the mortgagee's or lienor's rights of action, or the Association may purchase the unit at the foreclosure sale. A mortgagee shall have an unrestricted, absolute right to accept title to the unit in settlement and satisfaction of the mortgage or to foreclose its mortgage in accordance with its terms, and to bid upon the unit at the foreclosure sale.

17.5 Right to Inspect Books. The Association shall make available to institutional mortgagees upon request current copies of the recorded condominium documents and the books, records and financial statements of the Association. "Available" means ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies provided at the request of the mortgagee shall be at the expense of the mortgagee.

17.6 Financial Statement. Any institutional mortgagee is entitled, upon written request, to a copy of the financial statement or financial report of the Association as delivered, to the owners for the immediately preceding fiscal year.

18. AMENDMENT OF DECLARATION.

Except as otherwise provided above as to amendments, all amendments to this Declaration shall be proposed and adopted as follows:

18.1 Proposal. Amendments to this Declaration may be proposed by the Board of Directors or by written petition signed by the owners of at least one-fourth (1/4th) of the units.

18.2 Procedure. Upon any amendment or amendments to this Declaration being proposed as provided above, the proposed amendment or amendments shall be submitted to a vote of the members not later than the next annual meeting for which proper notice can be given.

18.3 Vote Required. Except as otherwise provided by law, or by specific provision of the condominium documents, this Declaration may be amended if the proposed amendment is approved by at least two-thirds (2/3rds) of the voting interests present in person or by proxy and voting at any annual or special meeting called for the purpose.

18.4 Certificate: Recording. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall be in the form required by law and shall be executed by officers of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Lee County, Florida.

19. MISCELLANEOUS.

19.1 Severability. The invalidity or non-enforceability in whole or in part of any covenant or
restriction or any section, subsection, sentence, clause, phrase or word or other provision of this Declaration, or any exhibit attached thereto, shall not effect the remaining portions thereof.

19.2 Applicable Statutes. The validity, application and construction of this Declaration and its exhibits shall be governed by the Laws of Florida, particularly the Condominium Act, as it exists on the date of recording this Declaration in the Public Records of Lee County, Florida.

19.3 Conflicts. If there is an irreconcilable conflict between any provision of this Declaration and the Governing Documents or the Condominium Act, the Governing Documents or the Condominium Act shall control. If there is a conflict between this Declaration and the Association's Articles of Incorporation or Bylaws, this Declaration shall control.

19.4 Interpretation. The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation.

19.5 Headings and Capitalization. The headings used in the condominium documents, and the capitalization of certain words, are for reference and convenience purposes only, and do not constitute substantive matter intended to be considered in construing the terms and provisions of these documents.
DEL PRADO PARK
42 UNITS - BUILDINGS A THRU E, PLUS
BLOCK 1185-B, UNIT 20,
SECTION 32, T44S R2
CAPE CORAL
LEE COUNTY, FLORIDA
AS RECORDED IN PLAT BOOK

PLOT PLAN
SCALE 1" = 30'
APRIL, 1969

DEL PRADO
WILL PIERCE GARLAND B FRIEDMAN
DELRADO PARK TOWNHOMES
42 UNITS - BUILDINGS A THRU E, PLUS A-1 & C-1
A CONDOMINIUM
E 581 SQ. FT

DESCRIPTION OF COMMON ELEMENTS:
The portions of the common elements which are included in the units, including:
1. The land
2. All improvements and portions of improvements not included within a unit
3. The common elements
4. All installations for the furnishing of services to more than one unit or the common elements, such as electricity, gas, water and sewers.
5. The tangible personal property required for the operation and maintenance of the condominium.

DESCRIPTION:
BLOCK 1195-1, UNIT 2D, SECTION 3T, T69S R24E CAPE CORAL, LEE COUNTY, FLORIDA, AS RECORDED IN PLAT BOOK 14, PAGE 54.

CERTIFICATION
These plans and graphic descriptions, together with the wording of the declaration, are a correct representation of the improvements, described herein, and these can be determined therefrom the location and dimensions of the common elements and of each unit, subject to revision by final survey upon completion of the construction of the project.

CERTIFIED TO GULF AMERICAN LAND CORP. DATED THIS 15TH DAY OF APRIL, 1963.

LAWRENCE A. TOLVAR
FLORIDA REGISTERED ARCHITECT NO. 2360

NOTES
1. Dimensions or plans on this sheet for townhouse areas include balconies or other portions of the building serving only the unit being measured, the entire unit will where it does not adjoin another townhouse, and to the interior surface of the unit will where it adjoins another townhouse.
2. The lower boundary of each townhouse shall be the upper surface of the ground level floor.
3. The upper boundary of each unit shall be planes formed by the underside of the second story ceilings.
4. Only areas as set forth above are delineated by this plan. Other areas shown for reference only. The dimensions shown here are prior to actual construction and are subject to variances where may occur during construction.
5. Finished floor elevations shown are based on B.M. elevation 8.70 at Lot 10, Block 1193.
6. These plans may be supplemented by a final survey of property referred to as townhouses in the final plat. Declaration, all of which shall be contained in the buildings known as "DELRADO PARK TOWNHOMES" being located on premises as described herein.

FIRST FLOOR PLAN
TYPICAL TOWNHOUSE UNIT
1/8" = 1'-0"
CONNCILL, PIERCE, GARLAND & FRIEDMAN, the undersigned, hereby certify, to the best of its knowledge, that the construction of the improvements of Del Pradl Park Townhouses Condominium, located at Cape Coral, Florida on Block 1185B, Unit 29, Part 2, Plat of CAPE CORAL, in Plat Book 19 at Page 4A, Lee County Public Records, which were indicated in the plans prepared under its supervision, dated April 2, 1969, has been substantially completed.

DATED THIS 17 DAY OF FEBRUARY, 1970.

CONNELL, PIERCE, GARLAND & FRIEDMAN

BY: Louis J. Shulik

STATE OF FLORIDA
COUNTY OF DADE

Before me, the undersigned authority personally appeared LOUIS J. SHULIK, to me known and who acknowledged that he executed the foregoing instrument for the purposes therein mentioned.

WITNESS my hand and official seal this 17 day of February, 1970.

NOTARY PUBLIC

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IN WITNESS WHEREOF, the we have hereunto set my hand and seal, acknowledged and filed the foregoing Amended and Restated Declaration of Condominium, under the laws of the State of Florida, this ______ day of __________________, 2005.

Signed in the presence of:

______________________________

DEL PRADO PARK TOWNHOUSES CONDOMINIUM
ASSOCIATION, INC.

Witness Signature: ___________________________  By: ___________________________

Printed Name: ___________________________  Printed Name: ___________________________, Chairman

Witness Signature: ___________________________

Printed Name: ___________________________  Attest: ___________________________

Secretary

Attest: Printed Name: ___________________________

(CORPORATE SEAL)

STATE OF FLORIDA)
COUNTY OF LEE )

The foregoing instrument was executed before me this ______ day of ______________, 2005.

By ___________________________, Chairman, Del Prado Park Townhouses

Condominium Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation. He/She is personally known to me, or did produce ___________________________ as identification.

______________________________
Notary Public Signature
(SEAL)

______________________________
Printed Name of Notary Public
DEL PRADO PARK TOWNHOUSES CONDOMINIUM ASSOCIATION, INC.

RULES AND REGULATIONS

The Rules and Regulations hereinafter enumerated as to the Association properties, condominium property, the common elements, the limited common elements, and the units, shall be deemed in effect until amended by the Board of Directors of the Association, and shall apply to and be binding upon all unit owners. The unit owners shall, at all times, obey said Rules and Regulations and shall use their best efforts to see that they are faithfully observed by their families, guests, invitees, servants, lessees, and persons over whom they exercise control and supervision. The current Rules and Regulations are as follows:

1. BUILDING APPEARANCE AND MAINTENANCE:

   (a) The sidewalks, walkways, and entrances must not be obstructed or encumbered or used for any purpose other than ingress and egress to and from the units, nor shall any carriages, bicycles, wagons, shopping carts, chairs, benches, tables, or any other object of a similar type and nature be left therein or thereon. No garbage cans, supplies, containers, or other articles shall be placed in or on the walkways and entry ways, nor shall any linens, clothes, clothing, curtain, rugs, mops, or laundry of any kind, or other articles be shaken or hung from any of the lanai railings. The limited common elements and the common elements shall be kept free and clear of refuse, debris and other unsightly material.

   (b) Personal property of unit owners may be stored outside their units providing the storage unit meets Board approval and is located on the fenced lanai. All lanais to be free of unsightly material.

   (c) No person shall allow anything whatsoever to fall from the lanais, walkways, entry ways or doors of the premises, nor sweep or throw any dirt, waste or other substances out of the unit onto the common elements of the Condominium.

   (d) Refuse and garbage shall be deposited only in the area provided. All garbage must be bagged. Boxes and large items must be broken down before placing in dumpster.

   (e) No unit owners shall make or permit any disturbing noises by himself, his family, servants, employees, agents, visitors, or licensees, nor do or permit anything by such persons that will interfere with the rights, comforts or convenience of other unit owners. No unit owner shall play audio equipment, television, radio or musical instrument in such a manner as to unreasonably disturb or annoy other occupants of the Condominium before 7:00 a.m. or after 11:00 p.m.
(f) No exterior radio or television antenna installation, or other wiring, shall be made without the prior written consent of the Board of Directors, except as otherwise provided by law.

(g) No sign, advertisement, notice or other similar material shall be exhibited, displayed, inscribed, painted or affixed, in or upon any part of the units, limited common elements or common elements by any unit owner or occupant without written permission of the Association.

(h) No inflammable, combustible, or explosive fluid, chemical or substance, shall be kept in any unit or limited common element, except those necessary and suited for normal household use.

(i) Unit owners, residents, their families, guests, servants, employees, agents, or visitors shall not at any time or for any reason enter upon or attempt to enter upon the roof of the building.

(j) Only licensed contractors/service personnel may be utilized in performing any plumbing, electrical or air conditioning work.

2. ALTERATION OF CONDOMINIUM:

Unit owners are specifically cautioned that their right to make any addition, change, alteration, or decoration to the exterior appearance of any portion of the Condominium is subject to the provisions of the Declaration of Condominium, and is also subject to prior approval of the Association. For example, no unit owner may install awnings or screen in the downstairs lanais. No unit owner may apply any type of film or covering to the inside or outside of window or door glass without the prior approval of the Association. All such additions, changes or alterations must be presented in writing to the board of Directors for approval, accompanied by written plans when requested or drawings and specifications. The Board of Directors shall approve such requests only if the Association is protected against, or indemnified as to construction liens and/or claims arising from such work.

3. EMERGENCIES IN OWNER'S ABSENCE:

In order that proper steps and procedures may be taken in a minimum amount of time during an emergency situation, the Association agrees to retain pass-keys to units. If an Owner chooses not to leave a key with the Association, said Owner shall designate a responsible, local caretaker to care for his unit should his unit suffer any damage caused by storms, hurricanes, winds or other violent acts of nature. The Association shall be provided with the name of each unit owner's aforesaid designated caretaker. Such caretaker will notify the Association prior to making any entry to the unit during the owner's absence.

Any unit owner who plans to be absent from his unit for an extended period of time (two weeks or more) must prepare his unit prior to his departure in the following manner:
a) By removing all furniture, plants and other objects from outside of the unit; and

(b) By shutting off the main water supply valve to the unit.

4. PETS:

Pets are prohibited.

5. PARKING OF VEHICLES:

Parking spaces are not intended for the storage of boats, motorcycles, recreational vehicles, motor homes, trailers, semi-trailers, house trailers, campers, truck campers, commercial trucks, non-operational or invalidly licensed automobiles. No repairs or maintenance of vehicles may be performed, except emergency repairs. Because there are limited parking spaces, each owner is specifically cautioned that the Board of Directors may prohibit owners from keeping more than two motor vehicles on the premises on a permanent basis. Any vehicles parked in violation of the parking restrictions are subject to towing, with the owner of the vehicle responsible for all costs of towing.

6. ASSOCIATION PROPERTY RESPONSIBILITY:

All electrical and mechanical facilities and equipment which belong to and are the responsibility of the Association, including the pool, ground-keeping, sprinkler system and exterior lighting equipment shall be operated only by Association authorized personnel.

7. NO BUSINESS OR COMMERCIAL ENTERPRISE:

No unit owner or lessee shall conduct or permit to be conducted any business or commercial enterprise from or on the premises.

8. POOL RULES AND REGULATIONS:

Strict adherence to pool regulations must be complied with to protect everyone concerned. Such rules and regulations are listed herewith and are posted in the pool area:

a. Hours shall be from 9:00 a.m. to 10:00 p.m. Exceptions are Association approved and/or sponsored parties.

b. No lifeguard is provided. Use the pool at your own risk.

c. Guests must be accompanied by hosting resident.

d. No animals in the pool area by Order of the Lee County Health Dept.

e. Running, pushing, shoving or other unsafe practices are strictly prohibited. Also, spitting, spouting of water or blowing the nose in the pool are strictly prohibited.
f. No glass containers of any kind are permitted in the pool area.

g. Children under ten (10) years of age must be accompanied by an adult at all times.

h. Electric appliances are not permitted in pool area.

i. The safety rope is for emergency use only ... Not for play. If you remove the rope during your swim, please return it to its proper place when finished.

j. Persons having open blisters, cuts or skin abrasions are advised not to use the pool due to the possibility of infection. Swim at your own risk.
AMENDED AND RESTATE BY-LAWS OF
DEL PRADO PARK TOWNHOUSES CONDOMINIUM
ASSOCIATION, INC.

1. IDENTITY.
   These are the Amended and Restated Bylaws of DEL PRADO PARK TOWNHOUSES
   CONDOMINIUM ASSOCIATION, INC., a non profit Florida corporation formed for the
   purpose of administering Del Prado Park Townhouses Condominium, which is located in Cape
   Coral, Lee County, Florida, upon the lands described in the Declaration of Condominium.

1.1. OFFICE.
   The office of the Association shall be at the Condominium at South Del Prado Blvd., Cape
   Coral, Florida, or such other location within the County as may from time to time be determined
   by the Board of Directors.

1.2. FISCAL YEAR.
   The fiscal year of the Association shall be the calendar year unless otherwise determined by the
   Board of Directors.

1.3. SEAL.
   The seal of the Association shall be circular in shape, bear the abbreviated name of the
   Association and the word Florida."

2. MEMBERS' MEETINGS; VOTING.

2.1 Annual Meeting
   The annual meeting of the members shall be held on the third Saturday in January, in Cape
   Coral, Lee County, Florida, or at a place and time designated by the Board of Directors, for the
   purpose of transacting any business duly authorized to be transacted by the members. At the time
   of the annual meeting all ballots cast in the annual election of Directors shall be counted and the
   election results announced. In the case of a tie vote, an immediate election will be held during
   the annual meeting to break the tie. Should a ballot be received or discovered after the counting
   of the ballots, said ballot will be deemed null and void.

2.2 Special Members' Meetings.
   Special members' meetings must be held whenever called by the Chairman or by a majority of
   the Board of Directors. Special meetings may also be called by members having at least ten
   percent (10%) of the votes of the entire membership, provided that the notice of the meeting is
   signed by all the members calling the meeting. Business at any special meeting shall be limited
   to the items specified in the notice of meeting.
the members at a meeting of the members held on the sixtieth (60th) day. Within ten (10) days thereafter, the Board shall send written notice of the action taken to all members who have not consented in writing. Nothing in this paragraph affects the rights of members to call a special meeting of the membership, as provided for by Section 2.2 above, or by law. If the vote is taken by the method described in this Section 2.12, the list of unit owners on record with the Secretary at the time of mailing the voting material shall be the list of qualified voters.

3. BOARD OF DIRECTORS.

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

3.1 Number and Terms of Service.

The number of Directors which shall constitute the whole Board of Directors shall be at least three (3) and no more than five (5). Each Director's term shall be for a period of one (1) year and until successors are duly elected.

3.2 Qualifications.

Each Director must be a recorded legal owner or the spouse of a recorded legal owner. Only one (1) person per unit shall be eligible to serve on the Board of Directors at any one time.

3.3 Elections.

In each annual election the members shall elect, by written secret ballot, as many Directors as there are vacancies to be filled, unless the balloting is dispensed with as provided for by law.

(A) First Notice; Candidates. Not less than sixty (60) days before the election, the Association shall mail or deliver to each unit owner entitled to vote, a first notice of the date of the election. Any unit owner or other eligible person wishing to be a candidate may qualify as such by giving written notice to the Association at least forty (40) days before the annual election.

(B) Second Notice; Candidate Information Sheets. If there are more candidates than there are Directors to be elected, balloting is required within the time prescribed by law, the Association shall mail or deliver a second notice of election, together with the notice of the annual meeting, to all unit owners entitled to vote in the contested election, together with a ballot listing all qualified candidates in alphabetical order, by surname. Upon timely request of a candidate, the Association shall also include an information sheet (no larger than 8-1/2 inches by 11 inches, furnished by the candidate) in the mailing. The costs of mailing and copying the candidate information sheet are borne by the Association.
Holders of proxies must be members or spouses of members. No proxy shall be valid if it names more than one person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy.

2.8 Adjourned Meetings.

Any duly called meeting of the members may be adjourned to be reconvened at a specific later time and place by vote of the majority of the voting interests present, regardless of whether a quorum has been attained. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance.

2.9 Order of Business.

The order of business at members' meetings shall be substantially as follows:
(a) Call of the roll or determination of quorum
(b) Reading or waiver of reading the minutes of the last members meeting
(c) Reports of Officers
(d) Reports of Committees
(e) Unfinished Business
(f) New Business
(g) Counting of ballots in annual election and announcing results
(h) Adjournment

2.10 Minutes.

Minutes of all meetings of the members, and of the Board of Directors, shall be kept in a businesslike manner, available for inspection by members or their authorized representatives at all reasonable times, and for at least seven (7) years after the meeting. Minutes must be reduced to written form within thirty (30) days after the meeting at which they were taken.

2.11 Parliamentary Rules.

The presiding officer may appoint a Parliamentarian to advise on matters of procedure, but the decision of the Presiding Officer on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

2.12 Action by Members Without Meeting.

Except the holding of the annual meeting and annual election of Directors, any action required or permitted to be taken at a meeting of the members may be taken by mail without a meeting if written consents or other instruments expressing approval of the action proposed to be taken are signed and returned by members having not less than the minimum number of votes that would be necessary to take such action at a meeting at which all of the voting interests were present and voting. If the requisite number of written consents are received by the Secretary within sixty (60) days after the earliest date which appears on any of the consent forms received, the proposed action so authorized shall be of full force and effect as if the action had been approved by vote of
2.3 Notice of Meetings.

Notice of all members' meetings must state the time, date, and place of the meeting and include an agenda for the meeting. The notice must be mailed to each member at the most recent address which appears on the books of the Association, or may be furnished electronically or by personal delivery. The member bears the responsibility for notifying the Association of any change of address. The notice must be mailed or delivered at least fourteen (14) days before the meeting. Notice of any meeting may be waived in writing by any person entitled to receive such notice.

2.4 Notice of Annual Meeting: Special Requirements.

Notice of the annual meeting, together with an agenda, shall be posted in a conspicuous place on the condominium property for at least fourteen (14) continuous days prior to the annual meeting. The notice and agenda of the annual meeting shall also be sent by first class mail to each owner, and an affidavit of the officer or other person making such mailing shall be retained in the Association records as proof of mailing. Notice of the annual meeting may be delivered in person or electronically to any unit owner, instead of by mail.

2.5 Quorum.

A quorum at a members' meeting is attained by the presence, either in person or by proxy, of persons entitled to cast at least a majority of the votes of the entire membership. Once a quorum has been attained, the subsequent withdrawal of members from a meeting does not affect the existence of a quorum for the remainder of that meeting.

2.6 Vote Required.

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

2.7 Proxy Voting.

To the extent lawful, any person entitled to attend and vote at a members meeting may establish his presence and cast his vote by proxy. Proxies may not be used in electing Directors. Limited proxies shall be used for votes taken to waive reserves or financial statement requirements, to amend the condominium documents, and for all other matters for which the Condominium Act requires or permits a vote of the members. General proxies may be used to establish a quorum, for procedural votes, and for non-substantive amendments to proposals for which a limited proxy is being used. A proxy may be given by any person entitled to vote, but shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting, and no proxy is valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the vote for the unit, specify the date, time and place of the meeting for which it is given, and the original must be delivered to the Secretary by the appointed time of the meeting or adjournment thereof.
(C) Balloting. Where balloting is required, Directors shall be elected by a plurality of the votes cast, provided that at least twenty percent (20%) of the eligible voters cast ballots. Proxies may not be used in the election. In the election of Directors, each unit shall have as many votes as there are Directors to be elected, but no unit may cast more than one vote for any candidate, it being the intent here of that voting for Directors shall be non-cumulative. Tie votes shall be broken by agreement among the candidates who are tied, or if there is no agreement, by lot, or by any other method required or permitted by law.

3.4 Vacancies on the Board.

If the office of any Director becomes vacant for any reason, a successor or successors to fill the remaining term or terms shall be appointed or elected as follows:

(A) If a vacancy is caused by the death, disqualification or resignation of a Director, a majority of the remaining Directors, though less than a quorum, shall appoint a successor, who shall hold office until the next regularly scheduled election, unless otherwise provided by law.

(B) If a vacancy occurs as a result of an increase in the number of Directors, or a recall, and less than a majority of the Directors are removed, the vacancy may be filled by appointment by a majority of the remaining Directors, though less than a quorum. If vacancies occur as a result of a recall in which a majority or more of the Directors are removed, the vacancies shall be filled in accordance with procedural rules of the Division of Florida Land Sales, Condominiums and Mobile Homes governing the method of selecting successors, and providing procedures for the operation of the Association during the period after the recall, but prior to the designation of successor Directors sufficient to constitute a quorum.

3.5 Removal of Directors from Office.

Any or all Directors may be removed with or without cause by a majority vote of the entire membership, either by a written petition or at any meeting called for that purpose. If a meeting is held or a petition is filed for the removal of more than one Director, the question shall be determined separately as to each Director sought to be removed. If a special meeting is called by ten percent (10%) of the voting interests for the purpose of recall, the notice of the meeting must be accompanied by a dated copy of the signature list, stating the purpose of the signatures. The meeting must be held not less than fourteen (14) days nor more than sixty (60) days from the date that notice of the meeting is given.

3.6 Organizational Meeting.

The organizational meeting of a new Board of Directors may be held immediately following the annual meeting at which they were elected, but no later than ten (10) days after the election of new Directors. The place and time may be fixed and announced by the Directors at the meeting in conjunction with which they were elected.
3.7 Other Meetings.

Meetings of the Board shall be held at such time and place in Lee County, Florida, as shall be determined from time to time by the Chairman or a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone or telegram at least two (2) days prior to the day named for such meeting.

3.8 Notice to Owners.

All meetings of the Board of Directors shall be open to the members. A notice and agenda for each Board meeting shall be posted conspicuously on the condominium property for at least forty-eight (48) continuous hours in advance of each Board meeting, except in an emergency.

Notice of any Board meeting at which a non-emergency special assessment will be considered shall be mailed to each owner at least fourteen (14) days before the meeting, and an affidavit of mailing shall be retained as proof of mailing.

Notice of any Board meeting at which a budget will be adopted or amended shall conform to the requirements of Section 5.2 below. The right of owners to attend Board meetings includes the right to speak on designated agenda items, subject to reasonable rules of the Association governing the manner, duration and frequency of doing so.

3.9 Quorum of Directors.

A quorum at a Board meeting exists only when at least a majority of all Directors are present in person at a duly called meeting. Directors may participate in any meeting of the Board, by a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons. Participation in a meeting by such means is equivalent to presence in person. Directors may not vote or participate in Board meetings by proxy or by secret ballot, except that officers may be elected by secret ballot.

3.10 Vote Required.

The acts approved by a majority of those Directors present and voting at a meeting at which a quorum exists shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the condominium documents or by applicable statutes. A Director who is present at a meeting of the Board shall be deemed to have voted with the prevailing point of view on every question, unless he voted against the question or abstained from voting because of an asserted conflict of interest. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes.

3.11 Adjourned Meeting.

The majority of the Directors present at any duly called meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specific time and date. At any reconvened meeting, provided a quorum is present, any business may be transacted that might have been transacted at the meeting originally as called.
3.12 Presiding Officer.

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

3.13 Compensation of Directors and Officers

The compensation of officers and employees of the Association shall be fixed by the Board of Directors. This provision shall not preclude the Board of Directors from employing a director as an employee of the Association or preclude the contracting with a director for the management of the Condominium. Directors and officers may be reimbursed for all actual and proper out-of-pocket expenses relating to the proper discharge of their respective duties. The Secretary/Treasurer will be compensated monthly with the amount of compensation determined by the Board of Directors.

3.14 Committees.

The Board of Directors may appoint from time to time such standing or temporary committees as the Board may deem necessary and convenient for the efficient and effective operation of the Condominium. Any such committee shall have the powers and duties assigned to it.

3.15 Emergency Powers.

In the event of any "emergency" as defined in Section 3.15(G) below, the Board of Directors may exercise the emergency powers described in this Section, and any other emergency powers authorized by Sections 617.0207, and 617.0303, Florida Statutes (2002), as amended from time to time.

(A) The Board may name as assistant officers persons who are not Directors, which assistant officers shall have the same authority as the executive officers to whom they are assistant during the period of the emergency, to accommodate the incapacity of any officer of the Association.

(B) The Board may relocate the principal office or designate alternative principal offices or authorize the officers to do so.

(C) During any emergency the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any practicable manner, including publication or radio. The Director or Directors in attendance at such a meeting shall constitute a quorum.

(D) Corporate action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association shall bind the Association; and shall have the rebuttable presumption of being reasonable and necessary.
(E) Any officer, director, or employee of the Association acting with a reasonable belief that his actions are lawful in accordance with these emergency Bylaws shall incur no liability for doing so, except in the case of willful misconduct.

(F) These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

(G) For purposes of this Section only, an "emergency" exists only during a period of time that the condominium, or the immediate geographic area in which the condominium is located, is subjected to:

1. a state of emergency declared by local civil or law enforcement authorities;
2. a hurricane warning;
3. a partial or complete evacuation order;
4. federal or state "disaster area" status; or
5. a catastrophic occurrence, whether natural or manmade, which seriously damages or threatens to seriously damage the physical existence of the condominium, such as an earthquake, tidal wave, fire, hurricane, tornado, war, civil unrest, or act of terrorism.

An "emergency" also exists for purposes of this Section during the time when a quorum of the Board cannot readily be assembled because of the occurrence of a catastrophic event, such as a hurricane, earthquake, act of war or terrorism, or other similar event. A determination by any two (2) Directors, or by the Chairman, that an emergency exists shall have presumptive validity.

4. OFFICERS.

The executive officers of the Association shall be a Chairman, Vice-Chairman, a Treasurer and/or Secretary. The Chairman and Vice Chairman must be Directors and, shall be elected by a majority vote of the Board of Directors. Any officer may be removed with or without cause at any meeting by vote of a majority of the Directors. Any person except the Chairman may hold two or more offices. The Board may, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one Vice-President. Any officer may resign at any time by giving written notice to the Association and unless otherwise specified therein, the resignation shall become effective upon receipt.

4.1 Chairman.

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

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

4.3 Secretary.

The Secretary shall attend meetings of the Board of Directors and of the members and cause all votes and the minutes of all proceedings to be recorded in a book or books to be kept for the purpose, and shall perform like duties for standing committees when required. The Secretary shall give, or cause to be given, proper notice of all meetings of the members, and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. The Secretary shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the condominium documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one is appointed. The Secretary/Treasurer is not required to be a Board Member and may be appointed by the Board of Directors.

4.4 Treasurer.

The Treasurer shall be responsible for Association funds and securities, budget preparation, the keeping of full and accurate accounts in books belonging to the Association. The Treasurer is responsible for the deposit of all moneys and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board. The Treasurer shall oversee the disbursement of Association funds, keeping proper vouchers for such disbursements, and shall render to the Chairman and Directors, at meetings of the Board, or whenever they may require it, a full accounting of all transactions and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if one is appointed. The Treasurer is not required to be a Board Member and may be appointed by the Board. The functions of the Secretary and Treasurer may be combined at the discretion of the Board of Directors.

5. POWERS AND DUTIES OF THE BOARD OF DIRECTORS.

All of the powers and duties of the Association under the Condominium Statutes, Declaration of Condominium, and these By-Laws, shall be exercised exclusively by the Board of Directors, its agents, contractors or employees subject only to the approval by unit owners when such is specifically required. Such powers and duties of the Directors shall include, but no limited to the following:

(1) To make and collect maintenance fees and assessments against unit owners to defray the costs of the Condominium.

(2) The maintenance, repair, replacement and operation of the condominium property.

(3) To make and amend regulations respecting the use of the property in the Condominium.

(4) To enforce by legal means, if necessary, the provisions of the Condominium Act, the condominium documents, the Rules and Regulations and the By-Laws of the Association.
(5) To carry insurance for the protection of unit owners and the Association against casualty and liabilities.

6) To pay for services rendered to the Condominium that is not billed to the individual unit owners, i.e., trash removal, irrigation water for the grounds, water for the pool, lawn service, pest control, and electricity for the property lighting.

(7) To follow the guidelines set forth in State Statute 718 for the administration of condominiums and condominium affairs.

6. FISCAL MATTERS.

The provisions for fiscal management of the Association set forth in the Declaration of Condominium shall be supplemented by the following:

6.1 Depository.

The Association shall maintain its funds in federally insured accounts in such financial institutions authorized to do business in the State of Florida as shall be designated from time to time by the Board. Withdrawal of funds from such accounts shall be only by persons authorized by the Board. Two signatures of Board Members are required on all checks.

6.2 Budget.

The Board of Directors shall adopt a budget of common expenses for each fiscal year. A copy of the proposed budget, and a notice stating the time, date and place of the meeting of the Board at which the budget will be adopted, shall be mailed to or served on the owners of each unit not less than fourteen (14) days before that meeting. The proposed budget must be detailed, and must show the amounts budgeted by income and expense classifications, including without limitation those specified in Section 718.504(20)(c) of the Condominium Act.

6.3 Monthly Maintenance Fee.

Monthly Maintenance Fee, based on an adopted budget shall be payable in monthly installments, in advance, due on the first day of each month of each year. If an annual budget has not been adopted at the time the first monthly installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last monthly payment, and payments shall be continued at such rate until a budget is adopted and new monthly installments are calculated, at which time an appropriate adjustment shall be added to or subtracted from each unit's next due monthly installment.

6.4 Special Assessments.

Special assessments may be imposed and approved by the Board of Directors to meet unusual, unexpected, unbudgeted, or non-recurring expenses. Special assessments are due on the day specified in the resolution of the Board approving such assessments. The notice of any Board meeting at which a
(A) Notice: The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing after reasonable written notice of not less than fourteen (14) days, and the notice shall include:

(1) A statement of the date, time and place of the hearing;
(2) A specific designation of the provisions of the Declaration, Bylaws or rules which are alleged to have been violated;
(3) A short and plain statement of the specific facts giving rise to the alleged violation(s); and
(4) The possible amounts of any proposed fine.

(B) Hearing: At the hearing the party sought to be fined shall have a reasonable opportunity to respond, to present evidence, to provide written and oral argument on all issues involved, and to review, challenge, and respond to any evidence or testimony presented by the Association. The hearing shall be conducted before a panel of three (3) unit owners appointed by the Board, none of whom may then be serving as Directors. If the panel, by majority vote does not agree with the fine, it may not be levied.

8.2 Mandatory Non-Binding Arbitration.

In the event of any dispute as defined in Section 718.1255(1) of the Condominium Act, between a unit owner and the Association arising from the operation of the Condominium, the parties must submit the dispute to mandatory non-binding arbitration under the rules of the Division of Florida Land Sales, Condominiums and Mobile Homes before filing any lawsuit over the disputed matters. Nothing herein shall be construed to require arbitration of disputes related to the levy or collection of fees or assessments.

8.3 Availability of Remedies.

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

9. INDEMNIFICATION.

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

(A) Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor.
CERTIFICATE OF AMENDMENT

To the Amended and Restated Declaration of Condominium, Rules and Regulations, and By-Laws of Del Prado Park Townhouses Condominium Association, Inc.

The undersigned, being duly elected and acting Chairman and Secretary, respectively, of Del Prado Park Townhouses Condominium Association, Inc., a Florida corporation not-for-profit, do hereby certify that all resolutions set forth in the attached were approved, evidenced by a written statement or ballot manifesting their intention that such amendments be adopted. The resolutions were approved and adopted by the votes indicated for the purpose of amending and restating the Declaration, Rules and Regulations, and By-Laws of Del Prado Park Townhouses Condominium as originally recorded in Official Records Book 581, pages 200-252 et. seq., and as subsequently amended in Book 1067, pages 1622-1628; as later amended in Book 1262, pages 422-423; as later amended in Book 1331, page 1094; all in the Public Records of Lee County, Florida.

1. The attached amended and restated documents were approved by a majority of the voting rights present in person or represented by written proxy at a duly called Special Meeting of the Association on March 29, 2005.

RESOLVED, that the Declaration of Condominium, Rules and Regulations, and By-Laws of Del Prado Park Townhouses Condominium Association, Inc. be and are hereby amended and restated.

2. That the officers and directors are hereby instructed and authorized to execute the aforementioned documents and cause them to be filed of public record, together with a Certificate of Amendment.

Dated this 29th day of March, 2005.

Rose Ann Crum, Chairman

Nancy L. Wetter, Secretary/Treasurer

The foregoing instrument was executed before me this 14th day of April, 2005 by Rose Ann Crum, Chairman, and Nancy L. Wetter, Secretary/Treasurer of Del Prado Park Townhouses Condominium Association, Inc., a Florida Not-For-Profit corporation, on behalf of the corporation. They are personally known to me, or did produce personally known as identification.

Sally A. Carman
Notary Public Signature

Sally A. Carman
Printed Name of Notary Public.
11.1 Gender: Number.

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

11.2 Severability.

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

11.3 Conflict.

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

11.4 Common Elements:

Limited Power to Convey. The Association has a limited power to convey portions of the common elements as provided for in Section 73.073, Florida Statutes.

The foregoing constitute the Amended and Restated By-laws of Del Prado Park Townhouses Condominium Association, Inc., and were duly adopted at a meeting of the Board of Directors held

On ______________________, 20___

Date: ______________________, 20___

DEL PRADO PARK TOWNHOUSES SENIOR CITIZEN CONDOMINIUM ASSOCIATION, INC.

BY: ________________________________ Secretary

Attest: ____________________________ (Corporate Seal)

Chairman

DEL PRADO PARK TOWNHOUSES – BY-LAWS – PAGE 57
Memo to all Unit Owners

Subject: Amended and Restated Condominium Documents

Attached is your copy of the proposed Amended and Restated Declaration of Condominium, Rules and Regulations and By-Laws. The changes proposed by unit owners have been incorporated in this finalized form. Once approved, these documents can be filed in the black binder provided previously. The changes may be found in the following pages.

Declaration – Section 11 – page 20 - statement regarding no owner may own more than 1 unit.
Declaration – Section 11.1 – page 20 – rental terms to be no less than 30 days and are not to exceed 10 months.
Rules and Regulations – Section 4 – Pets are prohibited.

Per procedure, a Special Meeting to discuss and vote for the Amended and Restated Documents Is scheduled for Tuesday, March 29, 2005 at 1:00 p.m. down by the pool.

A proxy vote is attached for your use. If you do not plan to attend the meeting, please complete the attached Proxy Vote and return to the Secretary prior to the 29th of March, either by mail or via the lock box. If you are planning on attending the meeting, please bring your proxy vote form with you to the meeting and we will conduct the balloting at the meeting. It is important that all owners vote on the Amended and Restated Condominium Documents.

Once the documents meet with your approval and are accepted, they will be filed with Lee County.

We look forward to seeing you at this Special Meeting.

Thank you,

Nancy L. Wetter
Secretary/Treasurer

Rose Ann Crum
Chairman
(B) A violation of criminal law, unless the Director or Officer had no reasonable cause to believe his action was unlawful or had reasonable cause to believe his action was lawful.

(C) A transaction from which the Director or Officer derived an improper personal benefit.

(D) Recklessness, or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard for human rights, safety or property, in an action by or in the right of someone other than the Association or a member. In the event of a settlement, the right to indemnification shall not apply unless a majority of the disinterested Directors approves such settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to, and not exclusive of, all other rights to which a Director or Officer may be entitled.

10. AMENDMENT OF BY-LAWS.

Except as otherwise provided in the Declaration of Condominium amendments to these Bylaws may be proposed and adopted in the following manner:

10.1 Proposal.

Amendments to these Bylaws may be proposed by a majority of the Board, or by written petition to the Board signed by at least one-fourth (1/4th) of the voting interests.

10.2 Procedure.

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

10.3 Vote Required.

Except as otherwise provided by law, or by specific provision of the condominium documents, these Bylaws may be amended if the proposed amendment is approved by at least two-thirds (2/3rds) of the voting interests of the Association present in person or by proxy and voting at any annual or special meeting called for the purpose, provided that notice of the amendment has been given to the members in accordance with law.

10.4 Recording Effective Date.

A copy of each adopted amendment shall be attached to a certificate adopted, which certificate shall be executed by the Chairman or the formalities of a deed. The amendment is effective when the are recorded in the Public Records of Lee County, Florida. The page of the Public Records where the Declaration of Condominium

11. MISCELLANEOUS.

DEL PRADO PARK TOWNHOUSES – BY-LAWS – PAGE
special assessment will be considered shall be given as provided in Section 3.8 above; and the notice to the owners that the assessment has been levied must contain a statement of the purpose(s) of the assessment. The funds collected must be spent for the stated purpose(s) or returned to the members as provided by law.

6.5 Fidelity Bonds.

The Chairman, Secretary and Treasurer, and all other persons who are authorized to sign checks, shall be bonded in such amounts as may be required by law or otherwise determined by the Board of Directors.

6.6 Financial Reports.

In accordance with Section 718.111 (13) of the Condominium Act, not later than one hundred twenty (120) days after the close of each fiscal year, the Board shall distribute to the owners of each unit a report showing in reasonable detail the financial condition of the Association as of the close of the fiscal year, and an income and expense statement for the year, detailed by accounts or a notice that the reports are available for dissemination.

6.7 Fiscal Year.

The fiscal year for the Association shall begin on the first day of January of each calendar year. The Board of Directors may adopt a different fiscal year in accordance with law and the regulations of the Internal Revenue Service.

7. RULES AND REGULATIONS.

The Board of Directors may, from time to time, adopt and amend administrative Rules and Regulations governing the use, maintenance, management and control of the common elements and the operation of the Association. Any Rule or Regulation created and imposed by the Board must be reasonably related to the promotion of health, happiness and peace of mind of the unit owners, and uniformly applied and enforced.

8. COMPLIANCE AND DEFAULT; REMEDIES.

In addition to the remedies provided in the Declaration of Condominium, the following shall apply:

8.1 Fines.

The Board of Directors may levy fines against units whose owners commit violations of the Condominium Act, the provisions of the condominium documents, or the rules and regulations, or who condone such violations by their family members, guests, lessees and/or agents. Fines shall be in amounts deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amount allowed by law, and no fine may be levied against an unoccupied unit. The procedure for imposing fines shall be as follows:
Valarie Harring
41360 Little Farm Road
Porta Gorda, FL
33982

Department of Business & Professional Regulation
Division of Florida Condominiums, Timeshares & Mobile Homes
1940 North Monroe Street
Tallahassee, FL
32399-1031