

THE WILLIAM FLEMING HOUSE

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DECLARATION OF CONDOMINIUM

OF

THE WILLIAM FLEMING HOUSE

A CONDOMINIUM

Atlantic Planning Corp., hereinafter called "Developer", for itself, its successors, grantees and assigns, being the owner of the fee simple title to the property hereinafter described, hereby submits said property to condominium ownership, pursuant to Chapter 718 of the Florida Statutes, hereinafter called the "Condominium Act", subject to the encumbrances referred to in Article V hereof.

All the restrictions, reservations, covenants, conditions, and easements contained herein shall constitute covenants running with the land or equitable servitudes upon the land, as the case may be, and shall run perpetually unless terminated as provided herein, and shall be binding upon all unit owners as hereinafter defined, and in consideration of receiving and by acceptance of a grant, devise, or mortgage, all grantees devisees, or mortgagees, their heirs, personal representatives, successors and assigns, and all Parties claiming by, through or under such persons, agree to be bound by the provisions hereof, as well as the By-Laws and Articles of Incorporation of the Association. Both the burdens imposed and the benefits provided shall run with each unit and the interests in common property as defined herein.

I. Definitions. As used herein, and in the By-Laws attached hereto, and in all amendments hereto, unless the context requires otherwise:

- (A) "Assessment" means a share of the funds required for the payment of common expenses which from time to time are assessed against the Unit Owner.
- (B) "Association" means THE WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC., the entity responsible for the operation of the Condominium.
  - 1. "Board of Administration" means the Board of Directors or other representative body responsible for administration of the Association.
    - The terms "Board of Directors" shall be synonymous with the term "Board of Administration".
- (C) "By-Laws" means the By-Laws for the government of the condominium as they exist from time to time.
- (D) "Common Elements" means the portion of the condominium property not included in the units. Common elements shall include the tangible personal property required for the maintenance of the common elements and limited common elements even though owned by the Association.
- (E) "Common Expenses" include the expenses of administration and maintenance of the condominium property; the expenses of maintenance, operation, repair, and replacement of the common elements; and other expenses declared to be common expenses herein and/or by the By-Laws and any other valid charge against the condominium as a whole.
- (F) "Common Surplus" means the excess of all receipts of the Association, including, but not limited to, assessments, rents, profits and revenues on account of the common elements, over the amount of common expenses.

- (G) "Condominium" is that form of ownership of condominium property under which units are subject to ownership by different owners, and there is appurtenant to each unit as part thereof an undivided share in the common elements.
- (H) "Condominium Parcel" means a unit together with the undivided share in the common elements which is appurtenant to the unit.
- (I) "Condominium Property" means and includes the land in a condominium, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.
- (J) "Declaration" or "Declaration of Condominium" or "Enabling Declaration" means this instrument, or as it may from time to time be amended.
- (K) "Limited Common Elements" means and includes those common elements which are reserved for the use of a certain unit or units to the exclusion of other units.
- (L) "Mortgagee" means a bank, savings and loan association, insurance company, mortgage company, or individual mortgage lender authorized to do business in Florida.
- (M) "Operation" or "Operation of Condominium" means and includes the administration and management of the condominium property.
- (N) "Unit" means a part of the condominium property which is to be subject to private ownership, as designated on the exhibits attached to this Declaration.
- (O) "Unit Owner" or "Owner of a Unit" means the owner of a condominium parcel.
- (P) "Developer" means a person who creates a condominium or offers condominium parcels for sale or lease in the ordinary course of business, but does not include an owner or lessee of a unit who has acquired his unit for his own occupancy.
- (Q) "Institutional Mortgagee" means a bank, savings and loan association, insurance company, mortgage company, or individual mortgage lender authorized to do business in Florida; real estate investment trust, or any governmental lending agency, including the Veterans Administration or Federal Housing Administration. "Mortgagee" shall mean any other lender.
- (R) "Utility Service" as used in the Condominium Act and as construed with reference to this condominium, and as used in this Declaration and the By-Laws attached hereto, shall include, but not be limited to, electric power, gas, hot and cold water, heating, refrigeration, air conditioning, garbage, and sewage disposal.

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

## II. Condominium Parcels: Appurtenances: Possession and Enjoyment.

- (A) The condominium parcel is a separate parcel of real property, the ownership of which may be in fee simple, or any other estate in real property recognized by law.
- (B) There shall pass with a unit as appurtenances thereto:
  - (1) An undivided share in the common elements.
  - (2) An exclusive easement for the use of the air space 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,

which easement shall be terminated automatically in any air space which is vacated from time to time.

(3) An undivided share in the common surplus.

(C) The owner of a unit is entitled to the exclusive possession of his unit subject to the provisions of Section 718.111(5), Florida Statutes. He shall be entitled to use the common elements in accordance with the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of owners of other units. There shall be a joint use of common elements and joint mutual easement for that purpose is hereby created.

(D) The owner of the respective "condominium unit" shall be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors, and ceilings surrounding his respective "condominium unit", and shall be deemed to own pipes, wires, conduits, or other utility lines running said respective "condominium unit".

(E) The owner of a unit shall have an easement for ingress and egress, over such streets, walks and other rights-of-way serving the units within the condominium as a part of the "common elements" as may be necessary to provide reasonable access to said public ways, and such easement shall extend to the invitees and licensees of said unit owner. In the event that any of said easements for ingress and egress shall be encumbered by any leasehold or lien, other than those on the condominium parcels, such leaseholds or liens shall hereby be subordinate to the use rights of any condominium unit owner or owners whose condominium parcel is not also encumbered by said lien or leasehold.

### III. Restraint upon Separation and Partition of Common Elements.

(A) The undivided share in the common elements which is appurtenant to a unit shall not be separated therefrom and shall pass with the title to the unit, whether or not separately described.

(B) A share in the common elements appurtenant to a unit cannot be conveyed or encumbered except together with the unit.

(C) The shares in the common elements appurtenant to the units shall remain undivided, and no action for partition of the common elements shall lie.

### IV. Common Elements.

(A) Common elements includes within its meaning the following items:

(1) The land on which the improvements are located and any other land included in the condominium property, whether or not contiguous.

(2) All parts of the improvements which are not included within the units.

(3) Easements through units for conduits, ducts, plumbing, wiring, and other facilities for the furnishing or utility services to units and the common elements.

(4) An easement of support in every portion of a unit which contributes to the support of a building.

(5) Installations for the furnishing of utility services to more than one unit to the common elements or to a unit other than the unit containing the installation.

- (6) The property and installations in connection therewith required for the furnishing of services to more than one unit or to the common elements.

V. Description of Property Involved.

- (A) The Developer does hereby submit to condominium ownership the following described property, lying and being in Dade County, Florida, together with the improvements situated thereon and the appurtenants thereto:

See EXHIBIT "A" attached hereto and made a part hereof

- (B) Attached hereto as Exhibit "1" and made a part hereof is a survey of said land, together with a graphic description of the improvements in which the units are located and a plot plan thereof, as well as the parking spaces.

- (C) The identification, location, and dimensions of each unit and the limited common elements appear on the aforescribed exhibits. Together with this Declaration, they are in sufficient detail to identify the limited common elements, each unit and their relative locations and approximate dimensions. The legend and notes contained thereon are incorporated herein and made a part hereof by reference.

- (D) Subject condominium is identified by the name:  
THE WILLIAM FLEMING HOUSE, a condominium.

VI. Amendment to Plans.

- (A) Alteration of Unit Plans. Developer reserves the right to change the interior design and arrangements of each unit so long as Developer owns the unit so altered. No such change shall increase the number of units nor alter the boundaries of the common elements without amendment of this Declaration. If two or more units are involved, the Developer shall apportion between the units the shares in the common elements which are appurtenant to the units concerned.

- (B) Amendment of Declaration. The Amendment of this Declaration reflecting such authorized alteration or plans by Developer need be signed and acknowledged by the Developer, and need not be approved by the Association, apartment owners, lienors or mortgagees, whether or not elsewhere required for an amendment.

VII. Percentage of Ownership of Common Elements and Voting Rights.

The Condominium property is hereby declared to contain and is divided into nine (9) units. Each such unit, together with its undivided share of the common elements, constitutes a condominium parcel.

For purposes of identification, each parcel has been numbered. Each unit shall have an undivided share in the common elements appurtenant to each unit, in the common expenses and in the common surplus, as follows:

Each Unit =  $111/9\%$

The respective undivided interests as herein set forth shall not be changed, altered or amended, except as otherwise provided for each unit owned by him.

VIII. Amendment of Declaration.

- (A) This Declaration may be amended at any regular or special meeting of the unit owners of this Condominium called or convened in accordance

with the By-Laws, by the affirmative vote of 2/3 of all voting members. All amendments shall be recorded and certified, as required by the Condominium Act.

(1) No amendment shall change any condominium parcel nor a unit owner's proportionate share of the common expenses or common surplus, nor the voting rights appurtenant to any unit, unless the record owner(s) thereof and all record owners of mortgages or other voluntarily placed liens thereon shall join in the execution of the amendment.

(2) No amendment shall be passed which shall impair or prejudice the rights and priorities of mortgagees.

(B) Invalidation of any part of this Condominium Declaration, or any provision contained in the Plat of the condominium property, or in a conveyance of a unit in the condominium by Judgment, Court Order of law, shall in no way affect any other provisions, which shall remain in full force and effect.

#### IX. By-Laws.

The operation of the condominium property shall be governed by the By-Laws of THE WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC., a copy of which is attached hereto and made a part hereof as Exhibit "3". No modification or amendment to these By-Laws shall be deemed valid unless set forth in or annexed to a duly recorded amendment to this Declaration in accordance with the formalities set forth herein. No amendment to said By-Laws shall be adopted which would affect or impair the validity or priority of any mortgage covering any condominium parcel.

#### X. The Association, Its Powers and Responsibilities.

- (A) The operation of the condominium shall be vested in THE WILLIAM FLEMING HOUSE ASSOCIATION, INC., a corporation not for profit.
- (B) No unit owner, except as an officer of the Association shall have any authority to act for the Association.
- (C) The powers and duties of the Association shall include those set forth in the By-Laws referred to in Article IX above, but in addition thereto, the Association shall have all of the powers and duties set forth in Section 718.111, of the Condominium Act.

#### XI. Maintenance; Limitation Upon Improvement.

- (A) The maintenance of the common elements shall be the responsibility of the Association.
- (B) There shall be no material alteration or substantial additions to the common elements or limited common elements, except in a manner provided herein. Notwithstanding the above, a unit owner may place upon the limited common elements appurtenant to his unit, a chain link fence or concrete block wall plastered and painted the same color as the unit, four (4) feet in height. Plant hedges may also be placed upon the limited common elements.
- (C) No unit owner shall make any alterations in the portions of the improvements of the condominium which are to be maintained by the Association; or remove any portion thereof, or make any additions thereto, or do any work which would jeopardize the safety or soundness of the building containing his unit or impair any easement.

#### XII. Common Expenses and Common Surplus.

- (A) Common expenses shall include expenses of the operation, maintenance, repair or replacement of the common elements, costs of carrying out the powers and duties of the Association, and any other expense designated as common expense by the Condominium Act, this Declaration or the By-Laws.

(B) The Funds for the payment of the common expenses shall be assessed against unit owners in the proportions or percentages of sharing common expenses provided in this Declaration.

(C) The common surplus shall be owned by unit owners in the shares provided in this Declaration, which shall be the same shares as their interest in the common elements.

XIII. Assessments; Liability; Lien and Priority; Interests; Collections.

(A) Subject to the provisions of the By-Laws of the Association attached hereto, the Association, through its Board of Directors, shall have the power to fix and determine from time to time the sums necessary to provide for the common expenses of the condominium property, including the expense allocable to services being rendered by a management company with which the Association may contract. Unless specifically waived by the Association, the assessments shall include hazard and liability insurance premiums. A unit owner, regardless of how title is acquired, shall be liable for all assessments coming due while he is the owner of a unit. In a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses up to the time of such voluntary conveyance. Assessments shall be made against units quarterly, in amounts not less than are required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred.

(B) The liability for assessments may not be avoided by waiver of the use or enjoyment of any common elements, services or by abandonment of the unit for which the assessment was made.

(C) Assessments and installments thereon not paid when due shall bear interest from the date when due until paid at the rate of twelve (12%) percent per annum until paid.

(D) The Association shall have a lien on each condominium parcel for any unpaid assessments and interest thereon against the owner of such condominium parcel until paid. Such lien shall also include a reasonable attorney's fee incurred by the Association incident to the collection of such assessment or enforcement of such lien. Such liens, shall be executed and recorded in the Public Records of Dade County, Florida, in the manner provided by law, but such liens shall be subordinate to the lien of any mortgage or any other lien recorded prior to the time of the recording of the claim of lien by the Association. The Board of Directors may take such action as it deems necessary to collect assessments by personal action or by enforcing and foreclosing said lien, and may settle and compromise same if in the best interest of the Association. Said lien shall be effective as and in the manner provided by the Condominium Act and shall have the priorities established by said Act.

(E) Liens for assessments may be foreclosed by suit brought in the name of the Association in like manner as a foreclosure of a mortgage on real property, as more fully set forth in the statute. The Association may bid at any sale in same and apply as a cash credit against its bid all sums due the Association covered by the lien being enforced.

(F) Where the mortgagee of a first mortgage of record or other purchaser of a condominium parcel as a result of foreclosure of the first mortgage, or where an institutional first mortgagee of record accepts a deed to said condominium parcel in lieu of foreclosure, such acquirer of title, his successors and assigns, shall not be liable for the share of common expenses or assessment by the Association pertaining to such condominium parcel or chargeable to the former unit owner of such parcel which became due prior to acquisition of title as a result of the foreclosure, or the acceptance of such deed in lieu of foreclosure. Such unpaid share of common expenses or assessments shall be deemed to be common expenses

collectible from all of the unit owners, including such acquirer, his successors and assigns.

- (G) Any person who acquires an interest in a unit, except through foreclosure of a first mortgage of record (or deed in lieu thereof), as specifically provided in the paragraph immediately preceding, including, without limitation, persons acquiring title by operation of law, including purchasers at judicial sales, shall not be entitled to occupancy of the unit or enjoyment of the common elements until such time as all unpaid assessments due and owing by the former owner have been paid.
- (H) The Association, acting through its Board of Directors, shall have the right to assign its claim and lien rights for the recovery of any unpaid assessments to the Developer or to any unit owner or group of unit owners, or to any third party.
- (I) Nothing herein shall abridge or limit the rights or responsibilities of mortgagees of a condominium unit as set out in greater detail in the statutes made and provided for same.
- (J) The Developer is hereby excused from the payment of the share of the common expenses and assessments related to units owned by the Developer and unsold for a period subsequent to the recording of this Declaration of Condominium and terminating not later than the first day of the fourth calendar month following the month after the closing of the purchase and sale of the first condominium unit within the condominium to a unit owner who is not the Developer, the nominee of the Developer, or a substitute or alternative Developer. However, the Developer shall pay the portion of common expenses incurred during that period which exceeds the amount assessed against other unit owners.

#### XIV. Termination of Condominium.

If all unit owners and holders of all liens and mortgages affecting any of the condominium parcels execute and duly record an instrument terminating the condominium property, or if "major damage" occurs as defined in the insurance clauses hereunder, said property shall be deemed to be subject to termination and thereafter owned in common by the unit owners. The undivided interest in the property owned in common by each unit owner shall then become the percentage of the undivided interest previously owned by such owner in the common elements.

#### XV. Equitable Relief.

In the event of major damage to or destruction of all or a substantial part of the condominium property, and in the event the property is not repaired, reconstructed or rebuilt with a reasonable period of time, any unit owner shall have the right to petition a court of equity having jurisdiction in and for Monroe County, Florida, for equitable relief, which may, but need not necessarily include, a termination of the condominium and a partition.

#### XVI. Limitation of Liability.

- (A) The liability of the owner of a unit for common expenses shall be limited to the amounts for which he is assessed from time to time in accordance with this Declaration.
- (B) The owner of a unit may be personally liable for the acts and omissions of the Association in relation to the use of the common elements, but only to the extent of his pro rata share of that liability in the same percentage as his interest in the common elements.
- (C) In any legal action in which the Association may be exposed to liability in excess of insurance coverage protecting it and the unit owners, the Association shall give notice of the exposure within a reasonable time to all unit owners and they shall have the right to intervene and defend.



XVII. Liens.

- (A) Subsequent to recording this Declaration and while the property remains subject thereto, no liens of any nature are valid against the condominium property as a whole except with the unanimous consent of the unit owners. During this period, liens may arise or be created only against individual condominium parcels.
- (B) Labor performed or materials furnished to a unit shall not be the basis for the filing of a lien pursuant to the Mechanic's Lien Law against the unit or condominium parcel of any unit owner not expressly consenting to or requesting the labor or materials. Labor performed or materials furnished to the common elements are not the basis for a lien on the common elements, but if authorized by the Association, the labor or materials are deemed to be performed or furnished with the express consent of each unit owner and may be the basis for the filing of a lien against condominium parcels in the proportions for which the owners are liable for common expenses.
- (C) If a lien against all of the condominium parcel becomes effective, each owner may relieve his condominium parcel of the lien by exercising any of the rights of a property owner under Chapter 713, Florida Statutes, or by payment of the proportionate amount attributable to his condominium parcel. Upon the payment, the lienor shall release the lien of record for that condominium parcel.

XVIII. Remedies for Violation.

Each unit owner and the Association shall be governed by and shall comply with this Declaration and the By-Laws attached hereto, and the Condominium Act of the State of Florida, as it may exist from time to time. Failure to do so shall entitle the Association or the other Unit owners to recover sums due for damages or injunctive relief or both. Such actions may be maintained by or against a unit owner or the Association in a proper case by or against the other unit owner, and the prevailing party shall be entitled to receive reasonable attorney's fees. Such relief shall not be exclusive of other remedies provided by law.

XIX. Easements.

- (A) The owners of each unit shall have as an appurtenance thereto a perpetual easement for ingress and egress to and from their units over stairs, terraces, balconies, walks and other common elements.
- (B) All condominium property shall be subject to perpetual easements for encroachments presently existing or which may hereafter be caused by settlement or movement of the building or minor inaccuracies in construction which easements shall continue until such encroachment no longer exists. If the condominium property be destroyed and then rebuilt, encroachments due to construction shall be permitted and a valid easement for said encroachments and the maintenance thereof shall exist.
- (C) Easements are reserved through the condominium property as may be required for utility service in order to serve the condominium adequately; provided, however, such easements through a unit shall only be according to the plans and specifications for the building, or as the building is constructed, unless approved in writing by the unit owner. This provision is in no way intended to abridge any other rights or privileges granted to the Condominium Association hereunder.

XX. Membership in Association.

- (A) THE WILLIAM FLEMING HOUSE ASSOCIATION, INC., was created to perform the acts and duties desirable in connection with management of the unit and limited common elements defined and described in this Condominium Declaration, and to levy and enforce collection of assessments necessary to perform said acts and duties. A copy of the Articles of Incorporation of said Corporation is attached hereto as Exhibit "2".

- (B) All unit owners shall automatically be members of the Association, and said membership shall terminate when they no longer own said units.
- (C) Owners of each unit shall collectively be entitled to one (1) vote, in accordance with voting privileges set forth in the By-Laws attached hereto as Exhibit "3".

**XXI. Assessments.**

- (A) The Board of Directors of the Association shall approve annual budgets in advance for each fiscal year, which budget shall project anticipated income and estimated expenses in sufficient detail to show separate estimates for taxes, if any, and insurance for the common elements, if any, plus operating and maintenance expenses, and other reasonable and necessary expenses.
- (B) Each unit shall be responsible for the following percentage of the annual assessment chargeable for each fiscal year: Each unit shall be responsible for 1/9. The annual assessment (if there shall be any) shall be broken into twelve (12) equal installments, each installment being payable in advance on the first day of each month, but the Board of Directors has the power to establish other collection procedures. In addition, the Association has the power to levy special assessments against each unit in their respective shares, if a deficit should develop in the treasury for the payment of common expenses.
- (C) Any unit owner shall have the right to require from the Association a Certificate showing the amount of unpaid assessments against him with respect to his unit. Any person other than the owner who relies upon such Certificate shall be protected thereby.

**XXII. Obligations of Members.**

In addition to other obligations and duties heretofore set out in this Declaration, every unit owner shall:

- (A) Promptly pay the assessments levied by the Association.
- (B) Maintain in good condition and repair his unit and all interior surfaces within or surrounding his unit (such as the surfaces of the walls, ceilings, floors), whether or not a part of the unit or limited common elements, and maintain as necessary the limited common elements appurtenant to the unit, and pay for any utilities which are separately metered to his unit.
- (C) Not use or permit the use of his unit for any purpose other than as a single family residence for himself and members of his family and social guests, and maintain his unit in a clean and sanitary manner.
- (D) A cat or dog may be kept by a unit owner on the premises but only if such animal does not cause a disturbance on the condominium property. The owner shall not permit any pet to create a nuisance so as to reasonably disturb unit owners or their families. Permitted pets shall be kept in their owner's unit or on the limited common elements appurtenant thereto.
- (E) Not permit or suffer anything to be done or kept in his unit which will increase the insurance rates on his unit or the common elements, or which will obstruct or interfere with the rights of other members or annoy them by unreasonable noises or otherwise; nor shall a member commit or permit any nuisance, or illegal act in his unit or in the common elements.
- (F) Return the "condominium parcel" for the purpose of ad valorem taxes to the respective taxing authorities having jurisdiction over them for separate assessment against his condominium parcel. For the purposes of ad valorem taxation, the interest of the owner of a "condominium parcel" in his "condominium unit" and in the "common elements" shall be considered as a unit. The value of said unit

shall be equal to the percentage of the value of the entire condominium, including land and improvements, as has been assigned to said unit in this Condominium Declaration. The total of all of said percentages equals 100% of the value of all of the land and improvements thereon.

XXIII. Enforcement of Maintenance.

In the event the owner of a unit fails to maintain it as required herein, or otherwise violates the provisions hereof, the other unit owner shall have the right to proceed in a Court of Equity to seek compliance with the foregoing provisions; or the Association shall have the right to assess the unit owner and the unit for the necessary sums to put the improvements within the unit in good condition, and to collect such assessment and have a lien for same, as is otherwise provided herein. After such assessment, the Association shall have the right, for its employees or agents, to enter the unit and do the necessary work to enforce compliance with the above provisions.

XXIV. Limited Common Elements.

Each unit owner shall maintain the limited common elements adjacent to and appurtenant to his unit.

XXV. Reconstruction or Repair After Casualty.

- (A) Determination to Reconstruct or Repair: If any part of the condominium property shall be damaged by casualty, it shall be reconstructed or repaired, unless all unit owners and holders of institutional mortgages encumbering all units agree otherwise.
- (B) Plans and Specifications: Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building; portions of which are attached hereto as exhibits.
- (C) Responsibility: If the damage is only to those parts of one unit for which the responsibility of maintenance and repair is that of the unit owner, then the unit owner shall be responsible for reconstruction and repair after casualty and for the payment of the cost of such repair. If two or more units are damaged, each unit owner shall be responsible for the repair of his respective unit, and the payment of the cost of same.
- (D) Insurance Proceeds: All insurance proceeds collected on account of a casualty, shall be disbursed in payment of the cost of reconstruction and repair. In the event that such insurance proceeds are not sufficient to pay such costs, then the unit owner shall be responsible for any deficit. If required by any institutional mortgagee holding a lien upon the damaged unit, the unit owner will instruct the insurance company to pay the proceeds to the mortgagee to be held on behalf of both the mortgagee and the unit owner such funds to be utilized in connection with the said reconstruction and repair.

XXVI. Insurance.

- (A) Purchase of Insurance: the Association shall obtain fire and extended coverage insurance and vandalism and malicious mischief insurance insuring all of the insurable improvements within each condominium parcel, and those portions of the limited common elements appurtenant to said condominium parcel (i.e., exterior walls and roof), together with liability coverage in an amount not less than \$25,000.00 per occurrence naming the Association and the unit owners' mortgagees, as their interests may appear, in a company authorized to do business in Florida with an "A" rating or better, in an amount which shall be equal to the maximum insurable replace-

ment value as determined annually; and the premiums for such coverage and other expenses in connection with said insurance shall be paid by the Association. The insurance agent writing the policy must be located in Dade County, Florida. A named insured shall be the Association, individually and as agent for the condominium unit owners and as agent for his mortgagees. The institutional mortgagee holding the highest dollar volume of the first mortgages shall have the right to approve the insurance company and insurance agent. In the event any institutional mortgagee holding a mortgage encumbering a unit in this condominium so requires, each individual unit owner shall obtain his own individual fire and extended coverage insurance insuring his unit.

Provision shall be made for the issuance of mortgages endorsements and memoranda of insurance to the mortgagees of unit owners.

**XXVII. Miscellaneous.**

- (A) If any provisions of this Declaration, or of the By-Laws attached hereto, or of the Condominium Act, or any section, sentence, clause, phrase or word, or the application thereof in any circumstances is held invalid, the validity of the remainder of this Declaration, the By-Laws attached hereto, or the Condominium Act, and of the application of any such provision, section, sentence, clause, phrase or word in other circumstances shall not be affected thereby.
- (B) Whenever notices are required to be sent hereunder, the same shall be sent to the unit owners by certified mail, at their place of residence in the condominium building, unless the unit owner has, by written notice duly receipted for, specified a different address. Notices to the Association shall be delivered by certified mail at the primary office of the Association, c/o Michael Halpern, 2509 North Roosevelt Blvd., Key West, Florida. All notices shall be deemed and considered sent when mailed. Any party may change his or its mailing address by written notice.
- (C) The Remedy for Violation provided for by Section 62 of the Condominium Act shall be in full force and effect. In addition thereto, should the Association find it necessary to bring court action to bring about the compliance with the law, this Declaration and the By-Laws, upon a finding by the Court that the violation complained of is willful and deliberate, the unit owner so violating, shall reimburse the Association for reasonable attorney's fees incurred by it in bringing such action, as determined by the court.

**XXVIII. Arbitration.**

Any dispute or controversy arising under, out of, in connection with or in relation to this Declaration and the creation of the condominium hereby and any amendments or proposed amendments hereto or any breach or alleged breach hereof, or in the event of a deadlock between the unit owners with respect as to whether or not some affirmative action is required under the terms hereof, shall be determined and settled by arbitration in the City of Key West, pursuant to the rules of the American Arbitration Association. The decision as rendered by the arbitrator shall be final and binding on each of the unit owners. The cost of arbitration shall be borne equally by the unit owners.

IN WITNESS WHEREOF, Atlantic Planning Corporation, a New York corporation, has hereunto set its hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 1984.

In the presence of:

ATLANTIC PLANNING CORPORATION,  
a New York corporation

\_\_\_\_\_  
, President

STATE OF )  
          ) SS:  
COUNTY OF )

I HEREBY CERTIFY that on this day personally appeared before me, the undersigned authority, duly authorized by law to administer oaths and take acknowledgments, \_\_\_\_\_, as President of ATLANTIC PLANNING CORPORATION, a New York corporation, and he acknowledged before me that he executed the foregoing Declaration as his free deed and act, for the purposes therein expressed.

WITNESS my hand and official seal at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 1984.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA  
AT LARGE

My commission expires:

ARTICLES OF INCORPORATION

THE WILLIAM FLEMING HOUSE CONDOMINIUM  
ASSOCIATION, INC.

WE, the undersigned, hereby associate ourselves together for the purpose of forming a non-profit corporation under the laws of the State of Florida, pursuant to Florida Statute 617, et seq., and hereby certify as follows:

ARTICLE I

The name of the corporation shall be:

THE WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC.

ARTICLE II

The general purpose of this non-profit corporation shall be as follows:

To be the "Association" (as defined in the Condominium Act of the State of Florida, F.S. 718, et seq.) for the operation of THE WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC. a Condominium created pursuant to the provisions of the Condominium Act; and as such Association, to operate and administer said condominium and carry out the functions and duties of said condominium set forth in the Declaration of Condominium established for said condominium.

ARTICLE III

All persons who are owners of condominium parcels with said condominium shall automatically be members of this corporation. Such membership shall automatically terminate when such person is no longer the owner of a condominium parcel. Membership in this corporation shall be limited to such condominium parcel owners.

Subject to the foregoing, admission to and termination of membership shall be governed by the Declaration of Condominium that shall be filed for said condominium among the public records of Dade County, Florida.

ARTICLE IV

This corporation shall have perpetual existence.

ARTICLE V

The names and residences of the subscriber to these Articles of Incorporation are as follows:

ARTICLE VI

Section 1. The affairs of the corporation shall be managed and governed by a Board of Directors composed of two (2) members. The Directors, subsequent to the first Board of Directors, shall be elected at the annual meeting of the membership for a term of one (1) year, or until their successors shall be elected and shall qualify. Provisions for such election, and provisions respecting the removal, disqualification and resignation of Directors and for filling vacancies on the Directorate, shall be established by the By-Laws.

Section 2. The principal officers of the corporation shall be:

President	James Garcia
Secretary/Treasurer	Michael Halpern

who shall be elected from time to time in the manner set forth in the By-Laws adopted by the corporation.

unit owners or kept by the Association and applied against the Association's expenses for the following year as shall be determined by a vote of the unit owners subject to approval by the Board of Directors of the Association. The corporation may pay compensation in a reasonable amount to its Members, Directors and Officers for services rendered, may confer benefits upon its Members in conformity with its purposes, and upon dissolution or final liquidation, may make distribution to its Members as is permitted by the Court having jurisdiction thereof, and no such payment, benefit or distribution shall be deemed to be a dividend or distribution of income.

This corporation shall issue no shares of stock of any kind or nature whatsoever. Membership in the condominium and the transfer thereof, as well as the number of Members, shall be upon such terms and conditions as provided for the Declaration of Condominium or By-Laws.

#### ARTICLE XIII

The principal office of the corporation shall be located at 2509 N. Roosevelt Blvd., Jey West, Florida, but the corporation may maintain offices and transact business in such other places within or without the State of Florida as may from time to time be designated by the Board of Directors.

The registered resident agent of the corporation shall be Michael Halpern and his address is 2509 N. Roosevelt Blvd., Key West, Florida, for the purpose of accepting service of process for the above stated corporation.

IN WITNESS WHEREOF, the subscribers hereto have hereunto set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 1984.

In the presence of:

\_\_\_\_\_  
\_\_\_\_\_

STATE OF FLORIDA)  
                                  )SS:  
COUNTY OF MONROE)

BEFORE ME, the undersigned authority, personally appeared JAMES GARCIA and MICHAEL HALPERN, who after being first duly sworn, acknowledged that they executed the foregoing Articles of Incorporation of THE WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit, for the purposes therein expressed.

WITNESS my hand and official seal at Miami, said County and State this \_\_\_\_\_ day of \_\_\_\_\_, 1984.

\_\_\_\_\_  
Notary Public, State of Florida  
at Large

My commission expires:

BY-LAWS

THE WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC.

A NON-PROFIT FLORIDA CORPORATION

ARTICLE I

IDENTITY

The following By-Laws shall govern the operation of the Condominium created by the Declaration of Condominium to which these By-Laws are attached.

The Association whose name appears at the end of this instrument is a Florida corporation not for profit, organized and existing under the laws of the State of Florida for the purpose of administering (but not exclusively unless so provided in the Association's Articles of Incorporation) the Condominium created by the Declaration of Condominium to which these By-Laws are attached.

Section 1. The office of the Association shall be at the Condominium property, or at such other place as may be subsequently designated by the Board of Directors of the Association.

Section 2. The seal of the corporation shall bear the name of the corporation, the word "Florida," the words "Corporation Not For Profit" and the year of incorporation.

Section 3. As used herein, the word "Corporation" shall be the equivalent of "Association" as defined in the Declaration of Condominium to which these By-Laws are attached. All other words, as used herein, shall have the same definitions as attributed to them in the Declaration of Condominium to which these By-Laws are attached.

ARTICLE II

MEMBERSHIP AND VOTING PRIVILEGES

Section 1. Membership in the Association shall be limited to owners of the Condominium units in the Condominium wherein this Corporation has been designated the Association to operate and administer said Condominium by virtue of the Declaration of Condominium of said Condominium. Transfer of unit ownership, either voluntary or by operation of law, shall terminate membership in the Association, and said membership is to become vested in the transferee. If unit ownership is to become vested in more than one person, then all of the persons so owning said unit shall be members eligible to hold office, attend meetings, etc.; but, as hereinafter indicated, the vote of a unit shall be cast by the "voting member". If unit ownership is vested in a corporation, said corporation may designate an individual officer or employee or the corporation as its "voting member."

Section 2. Voting.

(A) The owner(s) of each condominium unit shall be entitled to one (1) vote. If a condominium unit owner owns more than one unit, he shall be entitled to vote for each unit owned. The vote of a condominium unit shall not be divisible.

(B) The majority vote of the unit owners' total votes shall decide any question unless the Declaration of Condominium, By-Laws and Articles of Incorporation of the Association shall provide otherwise.

Section 3. Quorum. Unless otherwise provided in these By-Laws, the presence in person or by proxy of a majority of the unit owners' votes shall constitute a quorum.



Section 4. Proxies. Votes may be cast in person or by proxy. All proxies shall be in writing and signed by the person entitled to vote (as set forth below in Section 5), and shall be filed with the Secretary prior to the meeting in which they are to be used and shall be valid only for the particular meeting designated therein. Where a unit is owned jointly by a husband and wife, and, if they have not designated one of them as a voting member, a proxy must be signed by both husband and wife where a third person is designated.

Section 5. Designation of Voting Member. If a condominium unit is owned by one person, his right to vote shall be established by the recorded title to the unit. If a condominium unit is owned by more than one person, the person entitled to cast the vote for the unit shall be designated in a certificate, signed by all of the recorded owners of the unit, and filed with the Secretary of the Association. If a condominium unit is owned by a corporation, the officer or employee thereof entitled to cast the vote of the unit for the corporation shall be designated in a certificate for this purpose, signed by the President or Vice President, attested by the Secretary or Assistant Secretary of the corporation, and filed with the Secretary of the Association. The person designated in such certificate who is entitled to cast the vote for a unit shall be known as the "voting member". If such a certificate is not on file with the Secretary of the Association for a unit owned by more than one person or by a corporation, the vote of the unit concerned shall not be considered in determining the requirement for a quorum, or for any purpose requiring the approval of a person entitled to cast the vote for the unit, except if said unit is owned by a husband and wife. Such certificates shall be valid until revoked or until superseded by a subsequent certificate, or until a change in the ownership of the unit concerned. If a condominium unit is owned jointly by a husband and wife, the following three provisions are applicable thereto:

(a) They may, but they shall not be required to, designate a voting member.

(b) If they do not designate a voting member, and if both are present at a meeting and are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at the meeting. (As previously provided, the vote of a unit is not divisible.)

(c) Where they do not designate a voting member, and only one is present at a meeting, the person present may cast the unit vote just as though he or she owned the unit individually, and without establishing the concurrence of the absent person.

### ARTICLE III

#### MEETING OF THE MEMBERSHIP

Section 1. Place. All meetings of the Association membership shall be held at the Condominium property, or at such other place and at such time as shall be designated by the Board of Directors of the Association and stated in the Notice of the meeting, and shall be open to all unit owners.

Section 2. Notices. It shall be the duty of the Secretary to mail or deliver a Notice of each annual or special meeting, stating the time and place thereof, to each unit owner of record at least fourteen (14) days prior to such meeting, and to also post a Notice of same at a conspicuous place on the condominium property at least fourteen (14) days prior to said meeting. Notice of any special meeting shall state the purpose thereof. All Notices shall be mailed by certified mail to or served at the address of the unit owner as it appears on the books of the Association. In addition, Notices of the meetings shall be posted conspicuously forty-eight (48) hours in advance for the attention of unit owners except in an emergency.

Section 3. Annual Meeting. The annual meeting shall be held at 8:00 p.m., Eastern Standard Time, on the first Thursday of March for the purpose of transacting any business authorized to be transacted by the members, provided, however, that if that day is a legal holiday, the meeting shall be

held at the same hour on the next secular day following. At the annual meeting, each unit owner shall designate the person who shall be a member of the Board of Directors (subject to the provision of Article II above), and shall transact such other business as may properly be brought before the meeting.

Section 4. Special Meetings. Special meetings of the members for any purpose or purposes, unless otherwise prescribed by statute, may be called by either director in writing to all members, which request shall state the purpose or purposes of the proposed meeting. Business transacted at all special meetings shall be confined to the objects stated in the Notice thereof.

Section 5. Waiver and Consent. Whenever the vote of members at a meeting is required or permitted by any provision of these By-Laws, to be taken in connection with any action of the Association, the meeting and vote of members may be dispensed with, if all of the members who would have been entitled to vote upon the action if such meeting were held shall consent, in writing, to such action being taken; however, notice of such action shall be given to all members unless all members approve such action.

Section 6. Adjourned Meeting. If any meeting of members cannot be organized because a quorum of voting members is not present, either in person or by proxy, the meeting may be adjourned from time to time until a quorum is present.

Section 7. Approval or Disapproval. Approval or disapproval of a unit owner upon any matter, whether or not the subject of an Association meeting, shall be by the voting members; provided, however, that where a unit is owned jointly by a husband and wife and they have not designated one of them as a voting member, their joint approval or disapproval shall be required where they are both present, or in the event only one is present, the person present may cast the vote without establishing the concurrence of the absent person.

Section 8. Minutes of Meetings. Minutes of all meetings of unit owners and of the Board of Administration shall be kept in a businesslike manner and available for inspection by unit owners and Board members at all reasonable times.

#### ARTICLE IV

##### DIRECTORS

Section 1. Number, Term and Qualification. The affairs of the Association shall be governed by a Board of Directors composed of two (2) persons. All Directors, except those designated by the Developer, shall be members of the Association. All officers of a corporation unit owner shall be deemed to be members of the Association so as to qualify as Directors herein. The term of each Director's service shall extend until the next annual meeting of the members, and thereafter until his successor is duly elected and qualified.

##### Section 2. First Board of Directors.

(a) The first Board of Directors of the Association who shall hold office and serve until their successors have been elected and qualified shall consist of the following:

James Garcia  
718 Love Lane  
Key West, Florida

Michael Halpern  
2509 N. Roosevelt Blvd.  
Key West, Florida

Marshall King  
6301 Sunset Dr.  
S. Miami, Florida

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

Section 3. Vacancies and Directorate. If the office of any Director or Directors becomes vacant by reason of any death, resignation, retirement, disqualification, removal from office or otherwise, the unit owner who has the right to appoint said Director shall choose a successor or successors who shall hold office for the balance of the unexpired term in respect to which such vacancy occurred. The election held for the purpose of filling such vacancy may be held at any regular or special meeting of the Board of Directors.

Section 4. Regular Meetings. The Board of Directors may establish a schedule of regular meetings to be held at such time and place as the Board of Directors may designate.

Section 5. Special Meetings. Special meetings of the Board of Directors may be called by any director, by giving five (5) days' notice, in writing, to the other member of the Board of Directors of the time and place of said meeting. All notices of special meetings shall state the purpose of the meeting.

Section 6. Directors' Waiver of Notice. Before or at any meeting of the Board of Directors, any Director may waive notice of such meeting and such meeting and such waiver shall be deemed equivalent to the giving of notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If any of the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 7. Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at such meetings at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors, a quorum is not present, the Director present may adjourn the meeting from time to time. At each such adjourned meeting, any business which might have been transacted at the meeting, as originally called, may be transacted without further notice.

Section 8. Compensation. No Directors' fees shall be paid by the Association.

Section 9. Developer's Selection of Directors. Except as provided by Sec. 718.301 of the Condominium Act, the Developer shall have the right to designate the Directors who need not be owners of units in the Condominium, and may not be removed by members of the Association, as elsewhere provided herein; and where a vacancy occurs for any reason whatsoever, the vacancy shall be filled by the person designated by the Developer.

Transfer of Association Control. When the unit owners other than the Developer own 15 percent or more of the units in a condominium that will be operated ultimately by an association, the unit owners other than the Developer shall be entitled to elect no less than one-third of the members of the Board of Administration of the Association. Unit owners other than the Developer are entitled to elect not less than a majority of the members of the Board of Administration of an association:

- (a) Three years after 50 percent of the units that will be operated ultimately by the Association have been conveyed to purchasers;
- (b) Three months after 90 percent of the units that will be operated ultimately by the Association have been conveyed to purchasers;
- (c) When all the units that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business; or
- (d) When some of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business, whichever occurs first. The Developer is entitled to elect at least one member of the Board of Administration of an Association as long as the

Developer holds for sale in the ordinary course of business at least 5 percent, in condominiums with fewer than 500 units, and 2 percent, in condominiums with more than 500 units, of the units in a condominium operated by the Association.

Section 10. Powers and Duties. The Board of Directors of the Association, acting in unison, shall have the powers and duties necessary for the administration of the affairs of the Association, and may do all such acts and things as are now by law or by the Declaration of Condominium or these By-Laws, directed to be exercised and done by unit owners. These powers shall specifically include, but shall not be limited to, the following:

- (a) To exercise all powers specifically set forth in the Declaration of Condominium, these By-Laws and in the Condominium Act, and all powers incidental thereto.
- (b) To make assessments, collect said assessments, and use and expend the assessments to carry out the purposes and powers of the Association.
- (c) To employ, dismiss and control the personnel necessary for the maintenance and operation of the project, and of the common areas and facilities, including the right and power to employ attorneys, accountants, contractors and other professionals as the need arises.
- (d) To make and amend regulations respecting the operation and use of the common elements and condominium property and facilities, and the use and maintenance of the condominium units therein.
- (e) To contract for the management of the condominium and to designate to such contractor all of the powers and duties of the Association, except as may be required by Declaration of Condominium and the Condominium Act.

## ARTICLE V

### OFFICERS

Section 1. Elective Officers. The principal officers of the Association shall be President and Secretary/Treasurer, both of whom shall be selected by the Board of Directors. Both officers shall be members of the Board of Directors. The restrictions as to one person holding only one of the aforementioned offices or the President being members of the Board of Directors shall not apply while the Association is under the control of the Developer, the control being the right of the Developer to select a majority of the Board of Directors in accordance with Section 718.301 of the Condominium Act.

Section 2. Election. The officers of the Association designated in Section 1 above shall be selected annually by the Board of Directors at the organizational meeting of each new Board of Directors following the meeting of the members.

Section 3. Appointive Officers. The Board may appoint Assistant Secretaries and Assistant Treasurers, and such other officers as the Board of Directors deems necessary.

Section 4. Term. The officers of the Association shall hold office until their successors are chosen and qualified in their stead. Any officer elected or appointed by the Board of Directors may be removed at any time, with or without cause, by the Board of Directors, provided, however, that no officer shall be removed except by the affirmative vote for removal by a majority of the whole Board.

Section 5. The President. The President shall be the Chief Executive Officer of the Association; he shall preside at all meetings of the unit owners and of the Board of Directors. He shall have the executive powers and general supervision over the affairs of the Association and other officers.

He shall sign all written contracts to perform all the duties incident to his office and which may be delegated to him from time to time by the Board of Directors:

Section 6. The Secretary/Treasurer. The Secretary shall issue notices of all Board of Directors meetings and all meetings of the unit owners; he shall attend and keep the minutes of the meetings; he shall have charge of all of the books of the Association as well as records and papers, except those kept by the Treasurer. The Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent.

The Secretary/Treasurer shall have custody of the Association's funds and securities, if any, and he shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association. He shall deposit all monies and other valuable effects in the name of and to the credit of the Association in such depositories as may be designated from time to time by the Board of Directors. The books shall reflect an account for each unit in the manner required by Section 111(7) of the Condominium Act.

The Secretary/Treasurer shall disburse the funds of the Association as may be ordered by the Board of Directors in accordance with these By-Laws, making proper vouchers for such disbursements, and shall render to the President and Board of Directors at the regular meetings of the Board of Directors, or whenever they may require it, an account of all of his transactions as the Secretary/Treasurer and of the financial condition of the Association.

The Secretary/Treasurer shall collect assessments, if any, and shall promptly report the status of collection and of all delinquencies to the Board of Directors. He shall give status reports to potential transferees on which reports the transferees may reply.

The Assistant Treasurer shall perform the duties of the Secretary/Treasurer when the Secretary/Treasurer is absent.

## ARTICLE VI

### FINANCES AND ASSESSMENTS

Section 1. Depositories. The funds of the Association shall be deposited in such banks and depositories as may be determined by the Board of Directors from time to time upon resolutions approved by the Board of Directors, and shall be withdrawn only upon checks and demands for money signed by both members of the Board of Directors. Obligations of the Association shall also be signed by both members of the Board of Directors.

Section 2. Fiscal Year. The fiscal year for the Association shall begin on the first day of each year; provided, however, that the Board of Directors is expressly authorized to change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed by the Internal Revenue Code of the United States of America at such time as the Board of Directors deems it advisable.

Section 3. Determination of Assessments. The Board of Directors of the Association shall fix and determine from time to time the sum or sums necessary and adequate for the common expenses of the Condominium, as the same may be determined from time to time by the Board of Directors.

Section 4. Application of Payments. All assessment payments by unit owner shall be applied as to interest, delinquencies, costs and attorneys' fees. Other charges, expenses and advances, as provided herein and in the Declaration of Condominium, and general or special assessments, in such manner and amounts as the Board of Directors determines.

Section 5. Audits. Either unit owner may demand an audit of the accounts of the Association be made annually. Said audit shall be prepared by such accountant as the Board of Directors determines and a copy of said report shall be available to the members of the Association in the office of said Association and with the Treasurer of the Association. Such report shall be available not later than three (3) months after the end of the year for which the report is made. The cost of such audit shall be paid for by

the unit owner demanding such audit.

Section 6. Application of Surplus. Any payments or receipts of the Association, whether from unit owners or otherwise, paid during the year in excess of the operating expenses and other common expenses of the Association shall be either refunded to the unit owners or kept by the Association and applied against the Association's expenses for the following year as shall be determined by a vote of the unit owners, subject to approval by the Board of Directors of the Association.

#### ARTICLE VIII

##### COMPLIANCE AND DEFAULT

Section 1. Violations. In the event of a violation (other than the non-payment of the assessment) by the unit owner in any of the provisions of the Declaration of Condominium, of these By-Laws or of the applicable portions of the Condominium Act, the Association, by direction of its Board of Directors, may notify the unit owner by written notice of said breach, transmitted by mail, and if such violation shall continue for a period of thirty (30) days from date of this notice, the Association, through its Board of Directors, shall have the right to treat such violation as an intentional and inexcusable and material breach of the Declaration, of the By-Laws, or of the pertinent provisions of the Condominium Act, and the Association may then, at its option, have the following elections:

- (a) An action at law to recover for its damage on behalf of the Association or on behalf of the other unit owners;
- (b) An action in equity to enforce performance on the part of the unit owner; or
- (c) An action in equity for such equitable relief as may be necessary under the circumstances, including injunctive relief.

Upon finding by the Court that the violation complained of is willful and deliberate, the unit owner so violating shall reimburse the Association for reasonable attorney's fees incurred by it in bringing such action. Failure on the part of the Association to maintain such action at law or in equity within thirty (30) days from the date of a written request, signed by a unit owner, sent to the Board of Directors, shall authorize any unit owner to bring an action in equity or suit at law on account of violation in the manner provided for in the Condominium Act. Any violations which are deemed by the Board of Directors to be a hazard to public health may be corrected immediately as an emergency matter by the Association, and the cost thereof shall be charged to the unit owner as a specific item which shall be a lien against said unit with the same force and effect as if the charge were a part of the common expenses.

Section 2. Negligence or Carelessness of Unit Owners, Etc. Each unit owner shall be liable for the expense of any maintenance repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees. Nothing herein contained however, shall be construed so as to modify any waiver by an insurance company or rights of subrogation. The expense for any maintenance, repair or replacement, as provided in this section, shall be charged to said unit owner, as a specific item which shall be a lien against said unit with the same force and effect as if the charge were a part of the common expenses.

Section 3. Costs and Attorney's Fees. In any proceeding arising because of an alleged default by a unit owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be determined by Court.

Section 4. No Waiver of Rights. The failure of the Association or of a unit owner 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 unit owner to enforce such right, provision, covenant or condition for the future.

Section 5. Election of Remedies. All rights, remedies, and privileges, granted to the Association or unit owner pursuant to any terms, provisions, covenants or conditions of the Condominium documents shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such other party by Condominium documents, or at law or in equity.

#### ARTICLE IX

##### AMENDMENTS TO THE BY-LAWS

The By-Laws may be altered, amended or added to at any duly called meeting of the unit owners, provided that:

- (a) Notice of the meeting shall contain a statement of the proposed Amendment;
- (b) The Amendment has received the unanimous approval of the full Board of Directors.
- (c) No modification of or amendment to these By-Laws shall be valid unless set forth in or annexed to a duly recorded amendment to the Declaration of Condominium to which these By-Laws are attached.

#### ARTICLE X

##### NOTICES

Notices required to be sent hereunder shall be delivered or sent in accordance with the applicable provisions for notices as set forth in the Declaration of Condominium to which these By-Laws are attached.

#### ARTICLE XI

##### LIABILITY SURVIVES TERMINATION OF MEMBERSHIP

The termination in the Condominium shall not relieve or release any such former owner or member from any liability or obligations incurred under or in any way connected with the Condominium during the period of such ownership and membership, or impair any rights or remedies which the Association may have against such former owner and member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

#### ARTICLE XII

##### PARLIAMENTARY RULES

Roberts Rules of Order (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Condominium Act, the Declaration of Condominium or these By-Laws.

#### ARTICLE XIII

##### CONSTRUCTION

Wherever the masculine singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, wherever the context so requires.

Should any of the covenants herein imposed by void or be or become unenforceable by law or in equity, the remaining provisions of this instrument shall nevertheless be and remain in full force and effect.

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VEE 913 PAGE 2053

THE WILLIAM FLEMING HOUSE,  
A CONDOMINIUM

DAVID L. KOLHAGE  
CLK CH. CI  
HONORIE COUNTY, FLA.

SEP-6 P3:48

FILED FOR REC-3

DAVID L. KOLHAGE  
CLK CH. CI  
HONORIE COUNTY, FLA.

PM 06:24 AM '51

FILED FOR REC-3



DECLARATION OF CONDOMINIUM

OF

THE WILLIAM FLEMING HOUSE

A CONDOMINIUM

Atlantic Planning Corp., hereinafter called "Developer", for itself, its successors, grantees and assigns, being the owner of the fee simple title to the property hereinafter described, hereby submits said property to condominium ownership, pursuant to Chapter 718 of the Florida Statutes, hereinafter called the "Condominium Act", subject to the encumbrances referred to in Article V hereof.

All the restrictions, reservations, covenants, conditions, and easements contained herein shall constitute covenants running with the land or equitable servitudes upon the land, as the case may be, and shall run perpetually unless terminated as provided herein, and shall be binding upon all unit owners as hereinafter defined, and in consideration of receiving and by acceptance of a grant, devise, or mortgage, all grantees devisees, or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons, agree to be bound by the provisions hereof, as well as the By-Laws and Articles of Incorporation of the Association. Both the burdens imposed and the benefits provided shall run with each unit and the interests in common property as defined herein.

I. Definitions. As used herein, and in the By-Laws attached hereto, and in all amendments hereto, unless the context requires otherwise:

- (A) "Assessment" means a share of the funds required for the payment of common expenses which from time to time are assessed against the Unit Owner.
- (B) "Association" means THE WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC., the entity responsible for the operation of the Condominium.
  1. "Board of Administration" means the Board of Directors or other representative body responsible for administration of the Association. The terms "Board of Directors" shall be synonymous with the term "Board of Administration".
- (C) "By-Laws" means the By-Laws for the government of the condominium as they exist from time to time.
- (D) "Common Elements" means the portion of the condominium property not included in the units. Common elements shall include the tangible personal property required for the maintenance of the common elements and limited common elements even though owned by the Association.
- (E) "Common Expenses" include the expenses of administration and maintenance of the condominium property; the expenses of maintenance, operation, repair, and replacement of the common elements; and other expenses declared to be common expenses herein and/or by the By-Laws and any other valid charge against the condominium as a whole.
- (F) "Common Surplus" means the excess of all receipts of the Association, including, but not limited to, assessments, rents, profits and revenues on account of the common elements, over the amount of common expenses.

REF 919 MAR 2055

REF 920 MAR 1721

UNIT INFORMATION

5) What is the total number of units in the condominium, as described in the Declaration (if a phase condominium filing pursuant to s. 718.403, F.S., the total number of units in phases)?

Nine

6) If a phase condominium pursuant to s. 718.403, F.S., what is the total number of units in the phase(s) being filed?

n/a

7) Have residential units been offered for sale in this condominium by another developer?

Yes \_\_\_ No \_\_\_

8) What is the number of units to be sold by the developer submitting this statement?

Nine

9) Is this condominium in a development that contains more than one condominium? (Multi-condominium)

Yes \_\_\_ No X

If yes, please answer a, b and c below.

a) Does each separate condominium have its own association?

Yes \_\_\_ No n/a

b) Is there only one association that operates all the condominiums?

Yes \_\_\_ No n/a

c) Are there both a separate association for each condominium and a master/umbrella association?

Yes \_\_\_ No n/a

10) Does this condominium contain time-share or interval ownership units? (Time-Share Condominium)

Yes \_\_\_ No X

11) Is this condominium a conversion of existing, previously occupied improvements? (Conversion Condominium)

Yes X No \_\_\_

12) Is this a phase condominium pursuant to the requirements of s. 718.403, F.S.? (Phase Condominium)

Yes \_\_\_ No X

13) Are there units in this condominium that are unimproved parcels of land? (Land Condominium)

Yes \_\_\_ No X

14) Is this condominium in a development that contains other types of home ownership such as single family detached homes or townhouses? (Planned Unit Development)

Yes \_\_\_ No X

15) What other legal condominium type not specified in questions 9 through 14 might characterize this condominium? (Leasehold, for example)

None

### RECORDING INFORMATION

- 16) Is the Declaration of Condominium  
recorded? 1

Yes \_\_\_\_\_ No X

If yes, please provide the following information:

Date Recorded N/A Book            Page           

County Where Recorded \_\_\_\_\_

CONSTRUCTION INFORMATION

- 17) If the construction or remodeling, landscaping and furnishing of the condominium property are not substantially complete in accordance with s. 718.202, F.S., what is the anticipated completion date?

Substantially Complete

### SHARED FACILITIES

- 18) Does this condominium share recreational or other facilities with other condominiums for which unit owners are assessed?

Yes            No X

- 19) If the answer to question #18 is yes, is the total number of units in all condominiums that will share facilities greater than 207

Yes            No                      

### MANAGEMENT INFORMATION

- 20) Does the association operating this condominium employ professional management?

YES \_\_\_\_\_ NO X

If you, please answer a, b, c and d below.

- a) Is there a written management contract?

Yes            No N/A

- b) Is the management provided by a company?

YES \_\_\_\_\_ NO N/A

- c) Is the developer of this condominium affiliated with the professional management?

YOU NO. N/A

- d) Is there a resident manager?

YES            NO N/A

... yes, please answer a below.

If no, please answer b below.

- a) Does the lease have an escalation clause tied to a nationally recognized price index? Yes ☐ No ☒ N/A

- b) If units in this condominium are not presently subject to a lease, was there ever a recreational facilities lease that contained such an escalation clause? Yes ☐ No ☒

- 22) Are units in this condominium subject to a land lease? Yes ☐ No ☒

If yes, please answer a below.

If no, please answer b below.

- a) Does the land lease have an escalation clause tied to a nationally recognized price index? Yes ☐ No ☒ N/A

- b) If units in this condominium are not presently subject to a lease, was there ever a land lease that contained such an escalation clause? Yes ☐ No ☒

#### FINANCIAL INFORMATION

- 23) Is the developer obligated under any mortgage encumbering this development? Yes ☒ No ☐

If yes, please provide the following information:

Name of Lender Southeast Bank

Address 422 Front Street, City Key West

State Florida Zip 33040 Telephone (305) 294-4801

REC 919 MAR 20 1959

REC 920 PAGE 1725

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS REGULATION  
DIVISION OF FLORIDA LAND SALES AND CONDOMINIUMS

AFFIDAVIT OF DEVELOPER FILING STATEMENT

STATE OF Florida RE: THE WILLIAM FLEMING HOUSE CONDOMINIUM  
(Residential Condominium)

COUNTY OF Monroe ATLANTIC PLANNING CORPORATION, A  
(Developer) New York Corporation

I, James E. Corcoran Jr. (Developer or corporate officer, of  
developer, if a corporation), being by me the undersigned authority,  
first duly cautioned and sworn, affirms and says:

THAT affiant makes this Affidavit in support of the attached  
Developer Filing Statement relating to a residential cooperative  
and for use as evidence before the Division of Florida Land Sales  
and Condominiums or any Court of law.

THAT affiant will not offer for sale or lease residential  
cooperative units not described by the attached or previous state-  
ments, for which there is a filing requirement until such time as  
the filing has been submitted to the Division.

THAT affiant will not close on any contracts for sale or  
contracts for lease when the lease period is more than five years  
prior to notification by the Division that the filing is proper or  
presumed proper.

THAT Affiant is familiar with the provisions of Chapter 719,  
Florida Statutes, and that to the best of Affiant's knowledge and  
belief all documents and exhibits are in compliance with the  
applicable provisions of the law.

THAT affiant has been duly authorized to prepare and is the  
person responsible for the content of the accompanying Developer  
Filing Statement.

THAT to the best of Affiant's knowledge and belief, the  
Developer Filing Statement and all answers and information sub-  
mitted therein, including statements, documents and exhibits, are  
true and correct and no material fact has been omitted. This  
Affidavit is made for the purpose of verifying the same under oath.

James E. Corcoran Jr.  
Affiant

Vice President  
Title

Sworn to and subscribed before me this  
28th day of MARCH,  
A.D., 19 59, at MIAMI - FL.

Notary Public State of Florida At Large

REF 919 PAGE 2094

REF 920 PAGE 1760

718.616 Disclosure of condition of building and  
estimated repairs costs

The improvements have been constructed during 1984  
converting a warehouse to a nine (9) unit residential  
structure. The improvements are wood construction.  
The building was previously used as a furniture  
store and warehouse.

350071

OFF 819 PAGE 2053

THE WILLIAM FLEMING HOUSE,  
A CONDOMINIUM

REC'D  
MAY 24 11:51  
DAVID L. NICHOLS  
CLERK, CIR. CT.  
HONOLULU COUNTY, FLA

9.

Effective 7/19/80

(SUBSTANTIAL REWRITE)

EL 919 HM 2054

FD-15.0) Condominium Filing Statement.

STATE OF FLORIDA

DEPARTMENT OF BUSINESS REGULATION

DIVISION OF FLORIDA LAND SALES AND CONDOMINIUMS

725 South Bronough Street

Tallahassee, Florida 32301

Telephone (904) 488-0742

- The filing fee of \$10.00 for each residential unit to be sold by the developer as provided by ss. 718.502(3), F.S., must accompany this statement. If the offering is a phase condominium, pursuant to s. 718.403, F.S., the fee shall be paid as each phase is filed with the Division. A developer may submit more than one phase with this initial filing statement by identifying those additional phases after the name of the condominium.

NOTE: If the Declaration of Condominium is not yet recorded, the developer should submit the recording information to the Division within 30 days of its recordation.

FOR STAFF USE ONLY

Prospectus	Plot Plan	I.D. No.
Declaration	Floor Plan	Fee Rec'd
Articles	Budget	Form Review
By-Laws	Receipt Form	Recommended
Contract		Reviewed by

1) Name of Condominium THE WILLIAM FLEMING HOUSE, A CONDOMINIUM

Street Address 800 Fleming Street

City KEY WEST County MONROE State FLORIDA Zip 35040

2) Name of Developer/Owner ATLANTIC PLANNING CORPORATION, A New York Corp.

Address 800 Fleming Street City Key West County Monroe

State FL Zip 35040 Telephone (305) 294-4714

3) Developer's Attorney/Agent MICHAEL HALPERN

Address 2500 N. Roosevelt Blvd City Key West County Monroe

State FL Zip  Telephone (305) 296-5007

4) Name of Condominium Association The William Fleming House Condominium Association, Inc.

Address 800 Fleming Street City Key West County Monroe

State FL Zip 35040 Telephone (305) 294-4714



UNIT INFORMATION

- 5) What is the total number of units in the condominium, as described in the Declaration? If a phase condominium filing pursuant to S. 718.403, F.S., the total number of units in phases? Nine
- 6) If a phase condominium pursuant to S. 718.403, F.S., what is the total number of units in the phase(s) being filed? n/a
- 7) Have residential units been offered for sale in this condominium by another developer? Yes ☐ No ☒
- 8) What is the number of units to be sold by the developer submitting this statement? Nine
- 9) Is this condominium in a development that contains more than one condominium? (Multi-condominium) Yes ☐ No ☒  
If yes, please answer a, b and c below.
  - a) Does each separate condominium have its own association? Yes ☐ No ☒
  - b) Is there only one association that operates all the condominiums? Yes ☐ No ☒
  - c) Are there both a separate association for each condominium and a master/umbrella association? Yes ☐ No ☒
- 10) Does this condominium contain time-share or interval ownership units? (Time-Share Condominium) Yes ☐ No ☒
- 11) Is this condominium a conversion of existing, previously occupied improvements? (Conversion Condominium) Yes ☒ No ☐
- 12) Is this a phase condominium pursuant to the requirements of S. 718.403, F.S.? (Phase Condominium) Yes ☐ No ☒
- 13) Are there units in this condominium that are unimproved parcels of land? (Land Condominium) Yes ☐ No ☒
- 14) Is this condominium in a development that contains other types of home ownership such as single family detached homes or townhouses? (Planned Unit Development) Yes ☐ No ☒
- 15) What other legal condominium type not specified in questions 9 through 14 might characterize this condominium? (franchise, for example) None

LEASE INFORMATION

- 21) Are any units within this condominium subject to a recreational facilities lease?

Yes \_\_\_\_\_ No X

If yes, please answer a below.  
If no, please answer b below.

- a) Does the lease have an escalation clause tied to a nationally recognized price index?

Yes \_\_\_\_\_ No N/A

- b) If units in this condominium are not presently subject to a lease, was there ever a recreational facilities lease that contained such an escalation clause?

Yes \_\_\_\_\_ No X

- 22) Are units in this condominium subject to a land lease?

Yes \_\_\_\_\_ No X

If yes, please answer a below.  
If no, please answer b below.

- a) Does the land lease have an escalation clause tied to a nationally recognized price index?

Yes \_\_\_\_\_ No N/A

- b) If units in this condominium are not presently subject to a lease, was there ever a land lease that contained such an escalation clause?

Yes \_\_\_\_\_ No X

FINANCIAL INFORMATION

- 23) Is the developer obligated under any mortgage encumbering this development?

Yes X No \_\_\_\_\_

If yes, please provide the following information:

Name of Lender Southeast Bank

Address 422 Front Street, City Key West

State Florida Zip 33040 Telephone (305) 294-4601

MISCELLANEOUS INFORMATION

- 24) Is there a sales brochure for this condominium offering? Yes ☐ No ☒
- 25) As a condition of ownership, are unit owners in this condominium required to join a club such as a golf or tennis club? Yes ☐ No ☒
- 26) What is the date of the annual meeting of the association for this condominium? 1st Thursday in March

DEVELOPER INFORMATION

- 27) If the developer has offered for sale or lease residential condominium units described by the attached documents for which there is a filing requirement prior to this filing being submitted to the Division, copies of these contracts are attached so that the Division may assure that all documents are in a proper form which purchasers are entitled to.
- 28) If the developer has closed on any contracts for sale, or contracts for lease with a lease period of more than five (5) years, prior to notification by the Division that the filing is proper or presumed proper, copies of those contracts and deeds, if deeded, are attached so that the Division may assure that all documents are in a proper form which purchasers are entitled to.
- 29) Is the information contained herein true and correct as of the date hereof and no material facts requested have been omitted to the best of your knowledge? Yes ☒ No ☐

JAMES E. COOPER, JR.  
(Type or Print Name)

[Signature]  
(Signature of Developer/Agent)

VICE PRESIDENT  
(Title)

March 24, 1984  
(Date)

Specific Authority 718.501(1)(d) F.S., Law Implemented 718.502 F.S., History-New 14-15-77.

STATE OF Florida RE: THE WILLIAM FLEMING HOUSE CONDOMINIUM  
(Residential Condominium)

ATLANTIC PLANNING CORPORATION, A  
(Development) New York Corporation

1. James E. Cox Tex I (Developer or corporate officer, of developer, if a corporation), being by me the undersigned authority, first duly cautioned and sworn, affirms and says:

THAT affiant makes this Affidavit in support of the attached Developer Filing Statement relating to a residential cooperative and for use as evidence before the Division of Florida Land Sales and Condominiums or any Court of law.

THAT affiant will not offer for sale or lease residential cooperative units not described by the attached or previous statements, for which there is a filing requirement until such time as the filing has been submitted to the Division.

THAT Affiant will not close on any contracts for sale or contracts for lease when the lease period is more than five years prior to notification by the Division that the filing is proper or presumed proper.

THAT Affiant is familiar with the provisions of Chapter 219, Florida Statutes, and that to the best of Affiant's knowledge and belief all documents and exhibits are in compliance with the applicable provisions of the law.

THAT affiant has been duly authorized to prepare and is the person responsible for the content of the accompanying Developer Filing Statement.

THAT to the best of Affiant's knowledge and belief, the Developer Filing Statement and all answers and information submitted therein, including statements, documents and exhibits, are true and correct and no material fact has been omitted. This Affidavit is made for the purpose of verifying the same under oath.

*James E. Clough*  
AIRMAIL  
Vice President  
TITLE

Sworn to and subscribed before me this  
16th day of March  
A.D., 1934, at Miami, Fla.

History of the State of Florida At Large

DECLARATION OF CONDOMINIUM

OF

THE WILLIAM FLEMING HOUSE

A CONDOMINIUM

Atlantic Planning Corp., hereinafter called "Developer", for itself, its successors, grantees and assigns, being the owner of the fee simple title to the property hereinafter described, hereby submits said property to condominium ownership, pursuant to Chapter 718 of the Florida Statutes, hereinafter called the "Condominium Act", subject to the encumbrances referred to in Article V hereof.

All the restrictions, reservations, covenants, conditions, and assessments contained herein shall constitute covenants running with the land or equitable servitudes upon the land, as the case may be, and shall rule perpetually unless terminated as provided herein, and shall be binding upon all unit owners as hereinafter defined, and in consideration of receiving and by acceptance of a grant, devise, or mortgage, all grantees devisees, or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons, agree to be bound by the provisions hereof, as well as the By-Laws and Articles of Incorporation of the Association. Both the burdens imposed and the benefits provided shall run with each unit and the interests in common property as defined herein.

I. Definitions. As used herein, and in the By-Laws attached hereto, and in all amendments hereto, unless the context requires otherwise:

- (A) "Assessment" means a share of the funds required for the payment of common expenses which from time to time are assessed against the Unit Owner.
- (B) "Association" means THE WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC., the entity responsible for the operation of the Condominium.
  - 1. "Board of Administration" means the Board of Directors or other representative body responsible for administration of the Association. The terms "Board of Directors" shall be synonymous with the term "Board of Administration".
- (C) "By-Laws" means the By-Laws for the government of the condominium as they exist from time to time.
- (D) "Common Elements" means the portion of the condominium property not included in the units. Common elements shall include the tangible personal property required for the maintenance of the common elements and limited common elements even though owned by the Association.
- (E) "Common Expenses" include the expenses of administration and maintenance of the condominium property; the expenses of maintenance, operation, repair, and replacement of the common elements; and other expenses declared to be common expenses herein and/or by the By-Laws and any other valid charge against the condominium as a whole.
- (F) "Common Surplus" means the excess of all receipts of the Association, including, but not limited to, assessments, rents, profits and revenues on account of the common elements, over the amount of common expenses.

- (G) "Condominium" is that form of ownership of condominium property under which units are subject to ownership by different owners, and there is appurtenant to each unit as part thereof an undivided share in the common elements.
- (H) "Condominium Parcel" means a unit together with the undivided share in the common elements which is appurtenant to the unit.
- (I) "Condominium Property" means and includes the land in a condominium, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.
- (J) "Declaration" or "Declaration of Condominium" or "Enabling Declaration" means this instrument, or as it may from time to time be amended.
- (K) "Limited Common Elements" means and includes those common elements which are reserved for the use of a certain unit or units to the exclusion of other units.
- (L) "Mortgagee" means a bank, savings and loan association, insurance company, mortgage company, or individual mortgage lender authorized to do business in Florida.
- (M) "Operation" or "Operation of Condominium" means and includes the administration and management of the condominium property.
- (N) "Unit" means a part of the condominium property which is to be subject to private ownership, as designated on the exhibits attached to this Declaration.
- (O) "Unit Owner" or "Owner of a Unit" means the owner of a condominium parcel.
- (P) "Developer" means a person who creates a condominium or offers condominium parcels for sale or lease in the ordinary course of business, but does not include an owner or lessee of a unit who has acquired his unit for his own occupancy.
- (Q) "Institutional Mortgagee" means a bank, savings and loan association, insurance company, mortgage company, or individual mortgage lender authorized to do business in Florida; real estate investment trust, or any governmental lending agency, including the Veterans Administration or Federal Housing Administration. "Mortgagee" shall mean any other lender.
- (R) "Utility Service" as used in the Condominium Act and as construed with reference to this condominium, and as used in this Declaration and the By-Laws attached hereto, shall include, but not be limited to, electric power, gas, hot and cold water, heating, refrigeration, air conditioning, garbage, and sewage disposal.

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

II. Condominium Parcels: Appurtenances: Possession and Enjoyment.

- (A) The condominium parcel is a separate parcel of real property, the ownership of which may be in fee simple, or any other estate in real property recognized by law.
- (B) There shall pass with a unit as appurtenances thereto:
  - (1) An undivided share in the common elements.
  - (2) An exclusive right for the use of the all space occupied by the unit as it exists at any particular time and as the unit is altered or reconstructed from time to time.

which equipment shall be terminated and ultimately in any air space which is vacated from time to time.

(3) An undivided share in the common surplus.

(C) The owner of a unit is entitled to the exclusive possession of his unit, subject to the provisions of Section 718.111(5), Florida Statutes. He shall be entitled to use the common elements in accordance with the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of owners of other units. There shall be a joint use of common elements and joint mutual easement for that purpose is hereby created.

(D) The owner of the respective "condominium unit" shall be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors, and ceilings surrounding his respective "condominium unit", and shall be deemed to own pipes, wires, conduits, or other utility lines running-said respective "condominium unit".

(E) The owner of a unit shall have an easement for ingress and egress, over such streets, walks and other rights-of-way serving the units within the condominium as a part of the "common elements" as may be necessary to provide reasonable access to said public ways, and such easement shall extend to the invitees and licensees of said unit owner. In the event that any of said easements for ingress and egress shall be encumbered by any leasehold or lien, other than those on the condominium parcels, such leaseholds or liens shall hereby be subordinate to the use rights of any condominium unit owner or owners whose condominium parcel is not also encumbered by said lien or leasehold.

#### III. Restraint upon Separation and Partition of Common Elements.

- (A) The undivided share in the common elements which is appurtenant to a unit shall not be separated therefrom and shall pass with the title to the unit, whether or not separately described.
- (B) A share in the common elements appurtenant to a unit cannot be conveyed or encumbered except together with the unit.
- (C) The shares in the common elements appurtenant to the units shall remain undivided, and no action for partition of the common elements shall lie.

#### IV. Common Elements.

(A) Common elements includes within its meaning the following items:

- (1) The land on which the improvements are located and any other land included in the condominium property, whether or not contiguous.
- (2) All parts of the improvements which are not included within the units.
- (3) Easements through units for conduits, ducts, plumbing, wiring, and other facilities for the furnishing or utility services to units and the common elements.
- (4) An easement of support in every portion of a unit which contributes to the support of a building.
- (5) Installations for the furnishing of utility services to more than one unit to the common elements or to a unit other than the unit containing the installation.

919 PM 2003

And The property and installations in connection therewith required for the furnishing of services to more than one unit or to the common elements.

V. Description of Property Involved.

Subject does hereby submit to condominium ownership the to be described property, lying and being in Dade County, Florida, together with the improvements situated thereon and the appurtenances thereto:

See EXHIBIT "A" attached hereto and made a part hereof

(B) Attached hereto as Exhibit "1" and made a part hereof is a survey of said land, together with a graphic description of the improvements in which the units are located and a plot plan thereof, as well as the parking spaces.

(C) The identification, location, and dimensions of each unit and the limited common elements appear on the aforescribed exhibits. Together with this Declaration, they are in sufficient detail to identify the limited common elements, each unit and their relative locations and approximate dimensions. The legend and notes contained thereon are incorporated herein and made a part hereof by reference.

(D) Subject condominium is identified by the name: THE WILLIAM FLEMING HOUSE, a condominium.

VI. Amendment to Plans.

(A) Alteration of Unit Plans. Developer reserves the right to change the interior design and arrangements of each unit so long as Developer owns the unit so altered. No such change shall increase the number of units nor alter the boundaries of the common elements without amendment of this Declaration. If two or more units are involved, the Developer shall apportion between the units the shares in the common elements which are appurtenant to the units concerned.

(B) Amendment of Declaration. The Amendment of this Declaration reflecting such authorized alteration or plans by Developer need be signed and acknowledged by the Developer, and need not be approved by the Association, apartment owners, lienors or mortgagees, whether or not elsewhere required for an amendment.

VII. Percentage of Ownership of Common Elements and Voting Rights.

The Condominium property is hereby declared to contain and is divided into nine (9) units. Each such unit, together with its undivided share of the common elements, constitutes a condominium parcel.

For purposes of identification, each parcel has been numbered. Each unit shall have an undivided share in the common elements appurtenant to each unit, in the common expenses and in the common surplus, as follows:

Each Unit - 111/94

The respective undivided interests as herein set forth shall not be changed, altered or amended, except as otherwise provided for each unit owned by him.

VIII. Amendment of Declaration.

(A) This Declaration may be amended at any regular or special meeting of the unit owners of this Condominium called or convened in accordance



with the By-Laws, by the affirmative vote of 2/3 of all voting members. All amendments shall be recorded and certified, as required by the Condominium Act.

(1) No amendment shall change any condominium parcel nor a unit owner's proportionate share of the common expenses or common surplus, nor the voting rights appurtenant to any unit, unless the unit owner(s) thereof and all record owners of mortgages or other voluntarily placed liens thereon shall join in the execution of the amendment.

(2) No amendment shall be passed which shall impair or prejudice the rights and priorities of mortgagees.

(B) Invalidation of any part of this Condominium Declaration, or any provision contained in the Plat of the condominium property, or in a conveyance of a unit in the condominium, by judgment, Court Order or law, shall in no way affect any other provisions, which shall remain in full force and effect.

#### IX. By-Laws.

The operation of the condominium property shall be governed by the By-Laws of THE WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC., a copy of which is attached hereto and made a part hereof as Exhibit "3". No modification or amendment to these By-Laws shall be deemed valid unless set forth in or annexed to a duly recorded amendment to this Declaration in accordance with the formalities set forth herein. No amendment to said By-Laws shall be adopted which would effect or impair the validity or priority of any mortgage covering any condominium parcel.

#### X. The Association, Its Powers and Responsibilities.

- (A) The operation of the condominium shall be vested in THE WILLIAM FLEMING HOUSE ASSOCIATION, INC., a corporation not for profit.
- (B) No unit owner, except as an officer of the Association shall have any authority to act for the Association.
- (C) The powers and duties of the Association shall include those set forth in the By-Laws referred to in Article IX above, but in addition thereto, the Association shall have all of the powers and duties set forth in Section 718.111, of the Condominium Act.

#### XI. Maintenance; Limitation Upon Improvement.

- (A) The maintenance of the common elements shall be the responsibility of the Association.
- (B) There shall be no material alteration or substantial additions to the common elements or limited common elements, except in a manner provided herein. Notwithstanding the above, a unit owner may place upon the limited common elements appurtenant to his unit, a chain link fence or concrete block wall plastered and painted the same color as the unit, four (4) feet in height. Plant hedges may also be placed upon the limited common elements.
- (C) No unit owner shall make any alterations in the portions of the improvements of the condominium which are to be maintained by the Association; or remove any portion thereof, or make any additions thereto, or do any work which would jeopardize the safety or soundness of the building containing his unit or impair any easement.

#### XII. Common Expenses and Common Surplus.

- (A) Common expenses shall include expenses of the operation, maintenance, repair or replacement of the common elements, costs of carrying out the powers and duties of the Association, and any other expense designated as common expenses by the Condominium Act, this Declaration or the By-Laws.

(B) The funds for the payment of the common expenses shall be assessed against unit owners in the proportions or percentages of sharing common expenses provided in this Declaration.

(C) The common surplus shall be owned by unit owners in the shares provided in this Declaration, which shall be the same shares as their interest in the common elements.

XIII. Assessments; Liability; Lien and Priority; Interests; Collections.

(A) Subject to the provisions of the By-Laws of the Association attached hereto, the Association, through its Board of Directors, shall have the power to fix and determine from time to time the sums necessary to provide for the common expenses of the condominium property, including the expense allocable to services being rendered by a management company with which the Association may contract. Unless specifically waived by the Association, the assessments shall include hazard and liability insurance premiums. A unit owner, regardless of how title is acquired, shall be liable for all assessments coming due while he is the owner of a unit. In a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses up to the time of such voluntary conveyance. Assessments shall be made against units quarterly, in amounts not less than are required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred.

(B) The liability for assessments may not be avoided by waiver of the use or enjoyment of any common elements, services or by abandonment of the unit for which the assessment was made.

(C) Assessments and installments thereon not paid when due shall bear interest from the date when due until paid at the rate of twelve (12%) percent per annum until paid.

(D) The Association shall have a lien on each condominium parcel for any unpaid assessments and interest thereon against the owner of such condominium parcel until paid. Such lien shall also include a reasonable attorney's fee incurred by the Association incident to the collection of such assessment or enforcement of such lien. Such liens, shall be executed and recorded in the Public Records of Dade County, Florida, in the manner provided by law, but such liens shall be subordinate to the lien of any mortgage or any other lien recorded prior to the time of the recording of the claim of lien by the Association. The Board of Directors may take such action as it deems necessary to collect assessments by personal action or by enforcing and foreclosing said lien, and may settle and compromise same if in the best interest of the Association. Said lien shall be effective as and in the manner provided by the Condominium Act and shall have the priorities established by said Act.

(E) Liens for assessments may be foreclosed by suit brought in the name of the Association in like manner as a foreclosure of a mortgage on real property, as more fully set forth in the statute. The Association may bid at any sale in same and apply as a cash credit against its bid all sums due the Association covered by the lien being enforced.

(F) Where the mortgagee of a first mortgage of record or other purchaser of a condominium parcel as a result of foreclosure of the first mortgage, or where an institutional first mortgagee of record accepts a deed to said condominium parcel in lieu of foreclosure, such acquirer of title, his successors and assigns, shall not be liable for the share of common expenses or assessment by the Association pertaining to such condominium parcel or chargeable to the former unit owner of such parcel which became due prior to a junction of title as a result of the foreclosure, or the acceptance of such deed in lieu of foreclosure. Such unpaid share of common expenses or assessments shall be deemed to be common expenses

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collectible from all of the unit owners, including such acquirer, his successors and assigns.

- (G) Any person who acquires an interest in a unit, except through foreclosure of a first mortgage of record (or deed in lieu thereof), as specifically provided in the paragraph immediately preceding, including, without limitation, persons acquiring title by operation of law, including purchasers at judicial sales, shall not be entitled to occupancy of the unit or enjoyment of the common elements until such time as all unpaid assessments due and owing by the former owner have been paid.
- (H) The Association, acting through its Board of Directors, shall have the right to assign its claim and lien rights for the recovery of any unpaid assessments to the Developer or to any unit owner or group of unit owners, or to any third party.
- (I) Nothing herein shall abridge or limit the rights or responsibilities of mortgagees of a condominium unit as set out in greater detail in the statutes made and provided for same.
- (J) The Developer is hereby excused from the payment of the share of the common expenses and assessments related to units owned by the Developer and unsold for a period subsequent to the recording of this Declaration of Condominium and terminating not later than the first day of the fourth calendar month following the month after the closing of the purchase and sale of the first condominium unit within the condominium to a unit owner who is not the Developer, the nominee of the Developer, or a substitute or alternative Developer. However, the Developer shall pay the portion of common expenses incurred during that period which exceeds the amount assessed against other unit owners.

#### XIV. Termination of Condominium.

If all unit owners and holders of all liens and mortgages affecting any of the condominium parcels execute and duly record an instrument terminating the condominium property, or if "major damage" occurs as defined in the insurance clauses hereunder, said property shall be deemed to be subject to termination and thereafter owned in common by the unit owners. The undivided interest in the property owned in common by each unit owner shall then become the percentage of the undivided interest previously owned by such owner in the common elements.

#### XV. Equitable Relief.

In the event of major damage to or destruction of all or a substantial part of the condominium property, and in the event the property is not repaired, reconstructed or rebuilt with a reasonable period of time, any unit owner shall have the right to petition a court of equity having jurisdiction in and for Monroe County, Florida, for equitable relief, which may, but need not necessarily include, a termination of the condominium and a partition.

#### XVI. Limitation of Liability.

- (A) The liability of the owner of a unit for common expenses shall be limited to the amounts for which he is assessed from time to time in accordance with this Declaration.
- (B) The owner of a unit may be personally liable for the acts and omissions of the Association in relation to the use of the common elements, but only to the extent of his pro rata share of that liability in the same percentage as his interest in the common elements.
- (C) In any legal action in which the Association may be required to liability in excess of insurance coverage protecting it and the unit owners, the Association shall give notice of the exposure within a reasonable time to all unit owners and they shall have the right to intervene and defend.

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XVII. Liening.

- (A) Subsequent to recording this Declaration and while the property remains subject thereto, no liens of any nature are valid against the condominium property as a whole except with the unanimous consent of the unit owners. During this period, liens may arise or be only against individual condominium parcels.
- (B) Labor performed or materials furnished to a unit shall not be the basis for the filing of a lien pursuant to the Mechanic's Lien Law against the unit or condominium parcel of any unit owner not expressly consenting to or requesting the labor or materials. Labor performed or materials furnished to the common elements are not the basis for a lien on the common elements, but if authorized by the Association, the labor or materials are deemed to be performed or furnished with the express consent of each unit owner and may be the basis for the filing of a lien against condominium parcels in the proportions for which the owners are liable for common expenses.
- (C) If a lien against all of the condominium parcel becomes effective, each owner may relieve his condominium parcel of the lien by exercising any of the rights of a property owner under Chapter 713, Florida Statutes, or by payment of the proportionate amount attributable to his condominium parcel. Upon the payment, the lienor shall release the lien of record for that condominium parcel.

XVIII. Remedies for Violation.

Each unit owner and the Association shall be governed by and shall comply with this Declaration and the By-Laws attached hereto, and the Condominium Act of the State of Florida, as it may exist from time to time. Failure to do so shall entitle the Association or the other Unit owners to recover sums due for damages or injunctive relief or both. Such actions may be maintained by or against a unit owner or the Association in a proper case by or against the other unit owner, and the prevailing party shall be entitled to receive reasonable attorney's fees. Such relief shall not be exclusive of other remedies provided by law.

XIX. Easements.

- (A) The owners of each unit shall have as an appurtenance thereto a perpetual easement for ingress and egress to and from their units over stairs, terraces, balconies, walks and other common elements.
- (B) All condominium property shall be subject to perpetual easements for encroachments presently existing or which may hereafter be caused by settlement or movement of the building or minor inaccuracies in construction which easements shall continue until such encroachment no longer exists. If the condominium property be destroyed and then rebuilt, encroachments due to construction shall be permitted and a valid easement for said encroachments and the maintenance thereof shall exist.
- (C) Easements are reserved through the condominium property as may be required for utility service in order to serve the condominium adequately; provided, however, such easements through a unit shall only be according to the plans and specifications for the building, or as the building is constructed, unless approved in writing by the unit owner. This provision is in no way intended to abridge any other rights or privileges granted to the Condominium Association hereunder.

XX. Membership in Association.

- (A) THE WILLIAM FLEMING HOUSE ASSOCIATION, INC., was created to perform the acts and duties desirable in connection with management of the unit and limited common elements defined and described in this condominium declaration, and to levy and enforce collection of assessments necessary to perform said acts and duties. A copy of the Articles of Incorporation of said corporation is attached hereto.

(B) All unit owners shall automatically be members of the Association, and said membership shall terminate when they no longer own said units.

(C) Owners of each unit shall collectively be entitled to one (1) vote, in accordance with voting privileges set forth in the By-Laws attached hereto as Exhibit "3".

#### XXI. Assessments.

(A) The Board of Directors of the Association shall approve annual budgets in advance for each fiscal year, which budget shall project anticipated income and estimated expenses in sufficient detail to show separate estimates for taxes, if any, and insurance for the common elements, if any, plus operating and maintenance expenses, and other reasonable and necessary expenses.

(B) Each unit shall be responsible for the following percentage of the annual assessment chargeable for each fiscal year: Each unit shall be responsible for 1/9. The annual assessment (if there shall be any) shall be broken into twelve (12) equal installments, each installment being payable in advance on the first day of each month, but the Board of Directors has the power to establish other collection procedures. In addition, the Association has the power to levy special assessments against each unit in their respective shares, if a deficit should develop in the treasury for the payment of common expenses.

(C) Any unit owner shall have the right to require from the Association a Certificate showing the amount of unpaid assessments against him with respect to his unit. Any person other than the owner who relies upon such Certificate shall be protected thereby.

#### XXII. Obligations of Members.

In addition to other obligations and duties heretofore set out in this Declaration, every unit owner shall:

(A) Promptly pay the assessments levied by the Association.

(B) Maintain in good condition and repair his unit and all interior surfaces within or surrounding his unit (such as the surfaces of the walls, ceilings, floors), whether or not a part of the unit or limited common elements, and maintain as necessary the limited common elements appurtenant to the unit, and pay for any utilities which are separately metered to his unit.

(C) Not use or permit the use of his unit for any purpose other than as a single family residence for himself and members of his family and social guests, and maintain his unit in a clean and sanitary manner.

→ (D) A cat or dog may be kept by a unit owner on the premises but only if such animal does not cause a disturbance on the condominium property. The owner shall not permit any pet to create a nuisance so as to reasonably disturb unit owners or their families. Permitted pets shall be kept in their owner's unit or on the limited common elements appurtenant thereto.

(E) Not permit or suffer anything to be done or kept in his unit which will increase the insurance rates on his unit or the common elements, or which will obstruct or interfere with the rights of other members or annoy them by unreasonable noises or otherwise; nor shall a member commit or permit any nuisance, or illegal act in his unit or in the common elements.

(F) Return the "condominium parcel" for the purpose of ad valorem taxes to the respective taxing authorities having jurisdiction over them for separate assessment against his condominium parcel. For the purposes of ad valorem taxation, the interest in the owner of a "condominium parcel" in his "condominium unit" and in the "common elements" shall be considered as a unit. The value of said unit

shall be equal to the percentage of the value of the entire condominium, including land and improvements, as has been assigned to said unit in this Condominium Declaration. The total of all of said percentages equals 100% of the value of all of the land and improvements thereon.

**XXIII. Enforcement of Maintenance.**

In the event the owner of a unit fails to maintain it as required herein, or otherwise violates the provisions hereof, the other unit owner shall have the right to proceed in a Court of Equity to seek compliance with the foregoing provisions; or the Association shall have the right to assess the unit owner and the unit for the necessary sums to put the improvements within the unit in good condition, and to collect such assessment and have a lien for same as is otherwise provided herein. After such assessment, the Association shall have the right, for its employees or agents, to enter the unit and do the necessary work to enforce compliance with the above provisions.

**XXIV. Limited Common Elements.**

Each unit owner shall maintain the limited common elements adjacent to and appurtenant to his unit.

**XXV. Reconstruction or Repair After Casualty.**

- (A) Determination to Reconstruct or Repair: If any part of the condominium property shall be damaged by casualty, it shall be reconstructed or repaired, unless all unit owners and holders of institutional mortgages encumbering all units agree otherwise.
- (B) Plans and Specifications: Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building; portions of which are attached hereto as exhibits.
- (C) Responsibility: If the damage is only to those parts of one unit for which the responsibility of maintenance and repair is that of the unit owner, then the unit owner shall be responsible for reconstruction and repair after casualty and for the payment of the cost of such repair. If two or more units are damaged, each unit owner shall be responsible for the repair of his respective unit, and the payment of the cost of same.
- (D) Insurance Proceeds: All insurance proceeds collected on account of a casualty, shall be disbursed in payment of the cost of reconstruction and repair. In the event that such insurance proceeds are not sufficient to pay such costs, then the unit owner shall be responsible for any deficit. If required by any institutional mortgage holding a lien upon the damaged unit, the unit owner will instruct the insurance company to pay the proceeds to the mortgagee to be held on behalf of both the mortgagee and the unit owner such funds to be utilized in connection with the said reconstruction and repair.

**XXVI. Insurance.**

- (A) Purchase of Insurance: the Association shall obtain fire and extended coverage insurance and vandalism and malicious mischief insurance insuring all of the insurable improvements within each condominium parcel, and those portions of the limited common elements appurtenant to said condominium parcel (i.e., exterior walls and roofs, together with liability coverage in an amount not less than \$1,000,000 per occurrence naming the Association and the unit owner as mortgagee, as their interests may appear, in a company licensed to do business in Florida with an "A" rating or better.

ment value as determined annually, and the premiums for such coverage and other expenses in connection with said insurance shall be paid by the Association. The insurance agent writing the policy must be located in Dade County, Florida. A named insured shall be the Association, individually and as agent for the condominium unit owners and as agent for his mortgagees. The institutional mortgagees having the highest dollar volume of the first mortgages shall have the right to approve the insurance company and insurance agent. In the event any institutional mortgagees holding a mortgage encumbering a unit in this condominium so requires, each individual unit owner shall obtain his own individual fire and extended coverage insurance insuring his unit.

Provision shall be made for the issuance of mortgage endorsements and memoranda of insurance to the mortgagees of unit owners.

XXVII. Miscellaneous.

- (A) If any provisions of this Declaration, or of the By-Laws attached hereto, or of the Condominium Act, or any section, sentence, clause, phrase or word, or the application thereof in any circumstances is held invalid, the validity of the remainder of this Declaration, the By-Laws attached hereto, or the Condominium Act, and of the application of any such provision, section, sentence, clause, phrase or word in other circumstances shall not be affected thereby.
- (B) Whenever notices are required to be sent hereunder, the same shall be sent to the unit owners by certified mail, at their place of residence in the condominium building, unless the unit owner has, by written notice duly receipted for, specified a different address. Notices to the Association shall be delivered by certified mail at the primary office of the Association, c/o Michael Halpern, 2509 North Roosevelt Blvd., Key West, Florida. All notices shall be deemed and considered sent when mailed. Any party may change his or its mailing address by written notice.
- (C) The Remedy for Violation provided for by Section 62 of the Condominium Act shall be in full force and effect. In addition thereto, should the Association find it necessary to bring court action to bring about the compliance with the law, this Declaration and the By-Laws, upon a finding by the Court that the violation complained of is willful and deliberate, the unit owner so violating, shall reimburse the Association for reasonable attorney's fees incurred by it in bringing such action, as determined by the court.

XXVIII. Arbitration.

Any dispute or controversy arising under, out of, in connection with or in relation to this Declaration and the creation of the condominium hereby and any amendments or proposed amendments hereto or any breach or alleged breach hereof, or in the event of a deadlock between the unit owners with respect as to whether or not some affirmative action is required under the terms hereof, shall be determined and settled by arbitration in the City of Key West, pursuant to the rules of the American Arbitration Association. The decision as rendered by the arbitrator shall be final and binding on each of the unit owners. The cost of arbitration shall be borne equally by the unit owners.

IT BEING WITNESSED WHEREOF, Atlantic Planning Corporation, a New York corporation, has hereto set its hand and seal this 22 day of August, 1984.

In the presence of:

[Signature]  
Mrs. M. Gonzalez

ATLANTIC PLANNING CORPORATION,  
a New York corporation

[Signature]  
Vice President

STATE OF )  
) SS:  
COUNTY OF )

I HEREBY CERTIFY that on this day personally appeared before me, the undersigned authority, duly authorized by law to administer oaths and take acknowledgments, [Signature], as President of ATLANTIC PLANNING CORPORATION, a New York corporation, and he acknowledged before me that he executed the foregoing Declaration as his free deed and act, for the purposes therein expressed.

WITNESS my hand and official seal at Key West this 22 day of August, 1984.

[Signature]  
NOTARY PUBLIC, STATE OF FLORIDA  
AT LARGE



My commission expires:



CONSENT OF MORTGAGEE

KNOW ALL MEN BY THESE PRESENTS that SOUTHEAST BANK,  
A Florida Banking corporation, the holder of a  
mortgage on the property described in Exhibit "A" attached  
herein, does hereby consent to the Declaration of Condominium  
for THE WILLIAM FLEMING HOUSE CONDOMINIUM for the purpose of  
consenting thereto. This consent being attached to the original  
Declaration of Condominium.

IN WITNESS WHEREOF, we have caused these presents to  
be executed this 1st day of June, 1984.

Signed, sealed and delivered  
in the presence of:

[Signature]  
[Signature]

SOUTHEAST BANK, A Florida  
Banking Corporation

BY: [Signature]  
Charles R. Clawson, Vice President  
(SEAL)

STATE OF FLORIDA )  
COUNTY OF Monroe ) SS

BEFORE ME, the undersigned authority, personally appeared  
Charles R. Clawson, as Vice President  
and he acknowledged  
before me that he read the foregoing Consent of Mortgagee, and that  
the contents of same are true and he has signed same as such officer  
of said corporation for the uses and purposes therein expressed.

WITNESS my hand and official seal this 1st day of  
June, 1984

[Signature] (SEAL)  
Notary Public  
State of Florida at large

My commission expires:

Notary Public, State of Florida at large,  
My Commission Expires June 17, 1984  
Bundled thru Maynard Bonding Agency

Exhibit 2

ARTICLES OF INCORPORATION

THE WILLIAM FLEMING HOUSE CONDOMINIUM  
ASSOCIATION, INC.

WE, the undersigned, hereby associate ourselves together for the purpose of forming a non-profit corporation under the laws of the State of Florida, pursuant to Florida Statute 617, et seq., and hereby certify as follows:

ARTICLE I

The name of the corporation shall be:  
THE WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC.

ARTICLE II

The general purpose of this non-profit corporation shall be as follows:

To be the "Association" (as defined in the Condominium Act of the State of Florida, F.S. 718, et seq.) for the operation of THE WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC. a Condominium created pursuant to the provisions of the Condominium Act; and as such Association, to operate and administer said condominium and carry out the functions and duties of said condominium set forth in the Declaration of Condominium established for said condominium.

ARTICLE III

All persons who are owners of condominium parcels with said condominium shall automatically be members of this corporation. Such membership shall automatically terminate when such person is no longer the owner of a condominium parcel. Membership in this corporation shall be limited to such condominium parcel owners.

Subject to the foregoing, admission to and termination of membership shall be governed by the Declaration of Condominium that shall be filed for said condominium among the public records of Dade County, Florida.

ARTICLE IV

This corporation shall have perpetual existence.

ARTICLE V

The names and residences of the subscriber to these Articles of Incorporation are as follows:

ARTICLE VI

Section 1. The affairs of the corporation shall be managed and governed by a Board of Directors composed of two (2) members. The Directors, subsequent to the first Board of Directors, shall be elected at the annual meeting of the membership for a term of one (1) year, or until their successors shall be elected and shall qualify. Provisions for such election, and provisions respecting the removal, disqualification and resignation of Directors and for filling vacancies on the Directorate, shall be established by the By-Laws.

Section 2. The principal officers of the corporation shall be:

President	James Garcia
Secretary/Treasurer	Michael Halpern

who shall be elected from time to time in the manner set forth in the By-Laws adopted by the corporation.

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ARTICLE VII

The names of the officers who are to serve until the first election of officers, pursuant to the terms of the Declaration of Condominium and By-Laws, are as follows:

James Garcia	President
Michael Halpern	Secretary/Treasurer

ARTICLE VIII

The following persons shall constitute the first Board of Directors and shall serve until the first election of the Board of Directors at the first regular meeting of the membership:

James Garcia 718 Love Lane Key West, Florida	Michael Halpern 2509 N. Roosevelt Blvd. Key West, Florida	Marshall King 6301 Sunset Dr. S. Miami, Florida
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ARTICLE IX

The By-Laws of the corporation shall initially be made and adopted by its first Board of Directors.

Prior to the time that the property described in Article II hereinabove has been submitted to condominium ownership by the filing of the Declaration of Condominium, said first Board of Directors shall have full power to amend, alter or rescind said By-Laws by a majority vote.

After the property described in Article II hereinabove has been submitted to condominium ownership by the filing of the Declaration of Condominium, the By-Laws may be amended, altered, supplemented, or modified by the membership, at the annual meeting, or at a duly convened special meeting of the membership, attended by a majority of the membership, by vote, as follows:

A. The proposed change must be approved by the unanimous approval of the Board of Directors.

ARTICLE X

Amendments to these Articles of Incorporation may be proposed by any Member or Director and shall be adopted in the same manner as is provided for the amendment of the By-Laws as set forth in Article IX above. Said amendment(s) shall be effective when a copy thereof, together with an attached certificate of its approval, by the Membership, sealed with the corporate seal, signed by the Secretary/Treasurer, or an Assistant Secretary, and executed and acknowledged by the President, has been filed with the Secretary of State, and all filing fees paid.

ARTICLE XI

This corporation shall have all of the powers set forth in Florida Statute 617.021, all of the powers set forth in the Condominium Act of the State of Florida, and all powers granted to it by the Declaration of Condominium and exhibits annexed thereto, including the power to contract for the management of the condominium and any recreational facilities leased to the Association.

ARTICLE XII

There shall be no dividends paid to any of the Members nor shall any part of the income of the corporation be distributed to its Board of Directors or officers. In the event there are any excess receipts over disbursements as a result of performing services, such excess shall be either refunded to the

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unit owners or kept by the Association and applied against the Association's expenses for the following year as shall be determined by a vote of the unit owners subject to approval by the Board of Directors of the Association. The corporation may pay compensation in a reasonable amount to its Members, Directors and Officers for services rendered, may confer benefits upon its Members in conformity with its purposes, and upon dissolution or final liquidation, may make distribution to its Members as is permitted by the Court having jurisdiction thereof, and no such payment, benefit or distribution shall be deemed to be a dividend or distribution of income.

This corporation shall issue no shares of stock of any kind or nature whatsoever. Membership in the condominium and the transfer thereof, as well as the number of Members, shall be upon such terms and conditions as provided for the Declaration of Condominium or By-Laws.

ARTICLE XIII

The principal office of the corporation shall be located at 2509 N. Roosevelt Blvd., Jey West, Florida, but the corporation may maintain offices and transact business in such other places within or without the State of Florida as may from time to time be designated by the Board of Directors.

The registered resident agent of the corporation shall be Michael Halpern and his address is 2509 N. Roosevelt Blvd., Key West, Florida, for the purpose of accepting service of process for the above stated corporation.

IN WITNESS WHEREOF, the subscribers hereto have hereunto set their hands and seals this 22nd day of August, 1984.

In the presence of:

Thomas E. Carey J. H. Garcia  
Sara M. Housale James J. Garcia

STATE OF FLORIDA)  
)SS:  
COUNTY OF MONROE)

BEFORE ME, the undersigned authority, personally appeared JAMES GARCIA and MICHAEL HALPERN, who after being first duly sworn, acknowledged that they executed the foregoing Articles of Incorporation of THE WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit, for the purposes therein expressed.

WITNESS my hand and official seal at <sup>Key West</sup> Miami, said County and State this 22nd day of August, 1984.



Sara M. Housale  
Notary Public, State of Florida  
at Large

My commission expires:

Exhibit 3

BY-LAWS

THE WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC.

A NON-PROFIT FLORIDA CORPORATION

ARTICLE I

IDENTITY

The following By-Laws shall govern the operation of the Condominium created by the Declaration of Condominium to which these By-Laws are attached.

The Association whose name appears at the end of this instrument is a Florida corporation not for profit, organized and existing under the laws of the State of Florida for the purpose of administering (but not exclusively unless so provided in the Association's Articles of Incorporation) the Condominium created by the Declaration of Condominium to which these By-Laws are attached.

Section 1. The office of the Association shall be at the Condominium property, or at such other place as may be subsequently designated by the Board of Directors of the Association.

Section 2. The seal of the corporation shall bear the name of the corporation, the word "Florida," the words "Corporation Not For Profit" and the year of incorporation.

Section 3. As used herein, the word "Corporation" shall be the equivalent of "Association" as defined in the Declaration of Condominium to which these By-Laws are attached. All other words, as used herein, shall have the same definitions as attributed to them in the Declaration of Condominium to which these By-Laws are attached.

ARTICLE II

MEMBERSHIP AND VOTING PRIVILEGES

Section 1. Membership in the Association shall be limited to owners of the Condominium units in the Condominium wherein this Corporation has been designated the Association to operate and administer said Condominium by virtue of the Declaration of Condominium of said Condominium. Transfer of unit ownership, either voluntary or by operation of law, shall terminate membership in the Association, and said membership is to become vested in the transferee. If unit ownership is to become vested in more than one person, then all of the persons so owning said unit shall be members eligible to hold office, attend meetings, etc.; but, as hereinafter indicated, the vote of a unit shall be cast by the "voting member". If unit ownership is vested in a corporation, said corporation may designate an individual officer or employee or the corporation as its "voting member."

Section 2. Voting.

(A) The owner(s) of each condominium unit shall be entitled to one (1) vote. If a condominium unit owner owns more than one unit, he shall be entitled to vote for each unit owned. The vote of a condominium unit shall not be divisible.

(B) The majority vote of the unit owners' total votes shall decide any question unless the Declaration of Condominium, By-Laws and Articles of Incorporation of the Association shall provide otherwise.

Section 3. Quorum. Unless otherwise provided in these By-Laws, the presence in person or by proxy of a majority of the unit owners' votes shall constitute a quorum.

Section 4. Proxies. Votes may be cast in person or by proxy. All proxies shall be in writing and signed by the person entitled to vote (as set forth below in Section 5), and shall be filed with the Secretary prior to the meeting in which they are to be used and shall be valid only for the particular meeting designated therein. Where a unit is owned jointly by a husband and wife, and, if they have not designated one of them as a voting member, a proxy must be signed by both husband and wife where a third person is designated.

Section 5. Designation of Voting Member. If a condominium unit is owned by one person, his right to vote shall be established by the recorded title to the unit. If a condominium unit is owned by more than one person, the person entitled to cast the vote for the unit shall be designated in a certificate, signed by all of the recorded owners of the unit, and filed with the Secretary of the Association. If a condominium unit is owned by a corporation, the officer or employee thereof entitled to cast the vote of the unit for the corporation shall be designated in a certificate for this purpose, signed by the President or Vice President, attested by the Secretary or Assistant Secretary of the corporation, and filed with the Secretary of the Association. The person designated in such certificate who is entitled to cast the vote for a unit shall be known as the "voting member". If such a certificate is not on file with the Secretary of the Association for a unit owned by more than one person or by a corporation, the vote of the unit concerned shall not be considered in determining the requirement for a quorum, or for any purpose requiring the approval of a person entitled to cast the vote for the unit, except if said unit is owned by a husband and wife. Such certificates shall be valid until revoked or until superseded by a subsequent certificate, or until a change in the ownership of the unit concerned. If a condominium unit is owned jointly by a husband and wife, the following three provisions are applicable thereto:

- (a) They may, but they shall not be required to, designate a voting member.
- (b) If they do not designate a voting member, and if both are present at a meeting and are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at the meeting. (As previously provided, the vote of a unit is not divisible.)
- (c) Where they do not designate a voting member, and only one is present at a meeting, the person present may cast the unit vote just as though he or she owned the unit individually, and without establishing the concurrence of the absent person.

### ARTICLE III

#### MEETING OF THE MEMBERSHIP

Section 1. Place. All meetings of the Association membership shall be held at the Condominium property, or at such other place and at such time as shall be designated by the Board of Directors of the Association and stated in the Notice of the meeting, and shall be open to all unit owners.

Section 2. Notices. It shall be the duty of the Secretary to mail or deliver a Notice of each annual or special meeting, stating the time and place thereof, to each unit owner of record at least fourteen (14) days prior to such meeting, and to also post a Notice of same at a conspicuous place on the condominium property at least fourteen (14) days prior to said meeting. Notice of any special meeting shall state the purpose thereof. All Notices shall be mailed by certified mail to or served at the address of the unit owner as it appears on the books of the Association. In addition, Notices of the meetings shall be posted conspicuously forty-eight (48) hours in advance for the attention of unit owners except in an emergency.

Section 3. Annual Meeting. The annual meeting shall be held at 8:00 p.m., Eastern Standard Time, on the first Thursday of March for the purpose of transacting any business authorized to be transacted by the members; provided, however, that if that day is a legal holiday, the meeting shall be

held at the same hour on the next secular day following. At the annual meeting, each unit owner shall designate the person who shall be a member of the Board of Directors (subject to the provision of Article II above), and shall transact such other business as may properly be brought before the meeting.

Section 4. Special Meetings. Special meetings of the members for any purpose or purposes, unless otherwise prescribed by statute, may be called by either director in writing to all members, which request shall state the purpose or purposes of the proposed meeting. Business transacted at all special meetings shall be confined to the objects stated in the Notice thereof.

Section 5. Waiver and Consent. Whenever the vote of members at a meeting is required or permitted by any provision of these By-Laws, to be taken in connection with any action of the Association, the meeting and vote of members may be dispensed with, if all of the members who would have been entitled to vote upon the action if such meeting were held shall consent, in writing, to such action being taken; however, notice of such action shall be given to all members unless all members approve such action.

Section 6. Adjourned Meeting. If any meeting of members cannot be organized because a quorum of voting members is not present, either in person or by proxy, the meeting may be adjourned from time to time until a quorum is present.

Section 7. Approval or Disapproval. Approval or disapproval of a unit owner upon any matter, whether or not the subject of an Association meeting, shall be by the voting members; provided, however, that where a unit is owned jointly by a husband and wife and they have not designated one of them as a voting member, their joint approval or disapproval shall be required where they are both present, or in the event only one is present, the person present may cast the vote without establishing the concurrence of the absent person.

Section 8. Minutes of Meetings. Minutes of all meetings of unit owners and of the Board of Administration shall be kept in a businesslike manner and available for inspection by unit owners and Board members at all reasonable times.

#### ARTICLE IV

##### DIRECTORS

Section 1. Number, Term and Qualification. The affairs of the Association shall be governed by a Board of Directors composed of two (2) persons. All Directors, except those designated by the Developer, shall be members of the Association. All officers of a corporation unit owner shall be deemed to be members of the Association so as to qualify as Directors herein. The term of each Director's service shall extend until the next annual meeting of the members, and thereafter until his successor is duly elected and qualified.

##### Section 2. First Board of Directors.

(a. The first Board of Directors of the Association who shall hold office and serve until their successors have been elected and qualified shall consist of the following:

James Garcia  
718 Love Lane  
Key West, Florida

Michael Halpern  
2504 N. Roosevelt Blvd.  
Key West, Florida

Marshall King  
6301 Sunset Dr.  
E. Miami, Florida

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

Section 3. Vacancies and Directorate. If the office of any Director or Directors becomes vacant by reason of any death, resignation, retirement, disqualification, removal from office or otherwise, the unit owner who has the right to appoint said Director shall choose a successor or successors who shall hold office for the balance of the unexpired term in respect to which such vacancy occurred. The election held for the purpose of filling such vacancy may be held at any regular or special meeting of the Board of Directors.

Section 4. Regular Meetings. The Board of Directors may establish a schedule of regular meetings to be held at such time and place as the Board of Directors may designate.

Section 5. Special Meetings. Special meetings of the Board of Directors may be called by any director, by giving five (5) days' notice, in writing, to the other member of the Board of Directors of the time and place of said meeting. All notices of special meetings shall state the purpose of the meeting.

Section 6. Directors' Waiver of Notice. Before or at any meeting of the Board of Directors, any Director may waive notice of such meeting and such meeting and such waiver shall be deemed equivalent to the giving of notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If any of the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 7. Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at such meetings at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors, a quorum is not present, the Director present may adjourn the meeting from time to time. At each such adjourned meeting, any business which might have been transacted at the meeting, as originally called, may be transacted without further notice.

Section 8. Compensation. No Directors' fees shall be paid by the Association.

Section 9. Developer's Selection of Directors. Except as provided by Sec. 718.301 of the Condominium Act, the Developer shall have the right to designate the Directors who need not be owners of units in the Condominium, and may not be removed by members of the Association, as elsewhere provided herein; and where a vacancy occurs for any reason whatsoever, the vacancy shall be filled by the person designated by the Developer.

Transfer of Association Control. When the unit owners other than the Developer own 15 percent or more of the units in a condominium that will be operated ultimately by an association, the unit owners other than the Developer shall be entitled to elect no less than one-third of the members of the Board of Administration of the Association. Unit owners other than the Developer are entitled to elect not less than a majority of the members of the Board of Administration of an association:

- (a) Three years after 50 percent of the units that will be operated ultimately by the Association have been conveyed to purchasers;
- (b) Three months after 90 percent of the units that will be operated ultimately by the Association have been conveyed to purchasers;
- (c) When all the units that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business; or
- (d) When some of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business, whichever occurs first. The Developer is entitled to elect at least one member of the Board of Administration of an Association as long as the



Developer holds for sale in the ordinary course of business at least 5 percent, in condominiums with fewer than 500 units, and 2 percent, in condominiums with more than 500 units, of the units in a condominium operated by the Association.

**Section 10. Powers and Duties.** The Board of Directors of the Association, acting in unison, shall have the powers and duties necessary for the administration of the affairs of the Association, and may do all such acts and things as are now by law or by the Declaration of Condominium or these By-Laws, directed to be exercised and done by unit owners. These powers shall specifically include, but shall not be limited to, the following:

- (a) To exercise all powers specifically set forth in the Declaration of Condominium, these By-Laws and in the Condominium Act, and all powers incidental thereto.
- (b) To make assessments, collect said assessments, and use and expend the assessments to carry out the purposes and powers of the Association.
- (c) To employ, dismiss and control the personnel necessary for the maintenance and operation of the project, and of the common areas and facilities, including the right and power to employ attorneys, accountants, contractors and other professionals as the need arises.
- (d) To make and amend regulations respecting the operation and use of the common elements and condominium property and facilities, and the use and maintenance of the condominium units therein.
- (e) To contract for the management of the condominium and to designate to such contractor all of the powers and duties of the Association, except as may be required by Declaration of Condominium and the Condominium Act.

#### ARTICLE V

##### OFFICERS

**Section 1. Elective Officers.** The principal officers of the Association shall be President and Secretary/Treasurer, both of whom shall be selected by the Board of Directors. Both officers shall be members of the Board of Directors. The restrictions as to one person holding only one of the aforementioned offices or the President being members of the Board of Directors shall not apply while the Association is under the control of the Developer, the control being the right of the Developer to select a majority of the Board of Directors in accordance with Section 718.301 of the Condominium Act.

**Section 2. Election.** The officers of the Association designated in Section 1 above shall be selected annually by the Board of Directors at the organizational meeting of each new Board of Directors following the meeting of the members.

**Section 3. Appointive Officers.** The Board may appoint Assistant Secretaries and Assistant Treasurers, and such other officers as the Board of Directors deems necessary.

**Section 4. Term.** The officers of the Association shall hold office until their successors are chosen and qualified in their stead. Any officer elected or appointed by the Board of Directors may be removed at any time, with or without cause, by the Board of Directors; provided, however, that no officer shall be removed except by the affirmative vote for removal by a majority of the whole Board.

**Section 5. The President.** The President shall be the Chief Executive Officer of the Association; he shall preside at all meetings of the unit owners and of the Board of Directors. He shall have the executive powers and general supervision over the affairs of the Association and other officers.

He shall sign all written contracts to perform all the duties incident to his office and which may be delegated to him from time to time by the Board of Directors.

Section 6. The Secretary/Treasurer. The Secretary shall issue notices of all Board of Directors meetings and all meetings of the unit owners; he shall attend and keep the minutes of the meetings; he shall have charge of all of the books of the Association as well as records and papers, except those kept by the Treasurer. The Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent.

The Secretary/Treasurer shall have custody of the Association's funds and securities, if any, and he shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association. He shall deposit all monies and other valuable effects in the name of and to the credit of the Association in such depositories as may be designated from time to time by the Board of Directors. The books shall reflect an account for each unit in the manner required by Section 111(?) of the Condominium Act.

The Secretary/Treasurer shall disburse the funds of the Association as may be ordered by the Board of Directors in accordance with these By-Laws, making proper vouchers for such disbursements, and shall render to the President and Board of Directors at the regular meetings of the Board of Directors, or whenever they may require it, an account of all of his transactions as the Secretary/Treasurer and of the financial condition of the Association.

The Secretary/Treasurer shall collect assessments, if any, and shall promptly report the status of collection and of all delinquencies to the Board of Directors. He shall give status reports to potential transferees on which reports the transferees may reply.

The Assistant Treasurer shall perform the duties of the Secretary/Treasurer when the Secretary/Treasurer is absent.

## ARTICLE VI

### FINANCES AND ASSESSMENTS

Section 1. Depositories. The funds of the Association shall be deposited in such banks and depositories as may be determined by the Board of Directors from time to time upon resolutions approved by the Board of Directors, and shall be withdrawn only upon checks and demands for money signed by both members of the Board of Directors. Obligations of the Association shall also be signed by both members of the Board of Directors.

Section 2. Fiscal Year. The fiscal year for the Association shall begin on the first day of each year; provided, however, that the Board of Directors is expressly authorized to change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed by the Internal Revenue Code of the United States of America at such time as the Board of Directors deems it advisable.

Section 3. Determination of Assessments. The Board of Directors of the Association shall fix and determine from time to time the sum or sums necessary and adequate for the common expenses of the Condominium, as the same may be determined from time to time by the Board of Directors.

Section 4. Application of Payments. All assessment payments by unit owner shall be applied as to interest, delinquencies, costs and attorneys' fees. Other charges, expenses and advances, as provided herein and in the Declaration of Condominium, and general or special assessments, in such manner and amounts as the Board of Directors determines.

Section 5. Audits. Either unit owner may demand an audit of the accounts of the Association be made annually. Said audit shall be prepared by such accountant as the Board of Directors determines and a copy of said report shall be available to the members of the Association in the office of said Association and with the Treasurer of the Association. Such report shall be available not later than three (3) months after the end of the year for which the report is made. The cost of such audit shall be paid for by

the unit owner demanding such audit.

Section 6. Application of Surplus. Any payments or receipts of the Association, whether from unit owners or otherwise, paid during the year in excess of the operating expenses and other common expenses of the Association shall be either refunded to the unit owners or kept by the Association and applied against the Association's expenses for the following year as shall be determined by a vote of the unit owners, subject to approval by the Board of Directors of the Association.

## ARTICLE VIII

### COMPLIANCE AND DEFAULT

Section 1. Violations. In the event of a violation (other than the non-payment of the assessment) by the unit owner in any of the provisions of the Declaration of Condominium, of these By-Laws or of the applicable portions of the Condominium Act, the Association, by direction of its Board of Directors, may notify the unit owner by written notice of said breach, transmitted by mail, and if such violation shall continue for a period of thirty (30) days from date of this notice, the Association, through its Board of Directors, shall have the right to treat such violation as an intentional and inexcusable and material breach of the Declaration, of the By-Laws, or of the pertinent provisions of the Condominium Act, and the Association may then, at its option, have the following elections:

(a) An action at law to recover for its damage on behalf of the Association or on behalf of the other unit owners;

(b) An action in equity to enforce performance on the part of the unit owner; or

(c) An action in equity for such equitable relief as may be necessary under the circumstances, including injunctive relief.

Upon finding by the Court that the violation complained of is willful and deliberate, the unit owner so violating shall reimburse the Association for reasonable attorney's fees incurred by it in bringing such action. Failure on the part of the Association to maintain such action at law or in equity within thirty (30) days from the date of a written request, signed by a unit owner, sent to the Board of Directors, shall authorize any unit owner to bring an action in equity or suit at law on account of violation in the manner provided for in the Condominium Act. Any violations which are deemed by the Board of Directors to be a hazard to public health may be corrected immediately as an emergency matter by the Association, and the cost thereof shall be charged to the unit owner as a specific item which shall be a lien against said unit with the same force and effect as if the charge were a part of the common expenses.

Section 2. Negligence or Carelessness of Unit Owners, Etc. Each unit owner shall be liable for the expense of any maintenance repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees. Nothing herein contained however, shall be construed so as to modify any waiver by an insurance company or rights of subrogation. The expense for any maintenance, repair or replacement, as provided in this section, shall be charged to said unit owner, as a specific item which shall be a lien against said unit with the same force and effect as if the charge were a part of the common expenses.

Section 3. Costs and Attorney's Fees. In any proceeding arising because of an alleged default by a unit owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be determined by Court.

Section 4. No Waiver of Rights. The failure of the Association or of a unit owner 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 unit owner to enforce such right, provision, covenant or condition for the future.

Section 5: Election of Remedies. All rights, remedies, and privileges, granted to the Association or unit owner pursuant to any terms, provisions, covenants or conditions of the Condominium documents shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such other party by Condominium documents, or at law or in equity.

ARTICLE IX

AMENDMENTS TO THE BY-LAWS

The By-Laws may be altered, amended or added to at any duly called meeting of the unit owners, provided that:

- (a) Notice of the meeting shall contain a statement of the proposed Amendment;
- (b) The Amendment has received the unanimous approval of the full Board of Directors.
- (c) No modification of or amendment to these By-Laws shall be valid unless set forth in or annexed to a duly recorded amendment to the Declaration of Condominium to which these By-Laws are attached.

ARTICLE X

NOTICES

Notices required to be sent hereunder shall be delivered or sent in accordance with the applicable provisions for notices as set forth in the Declaration of Condominium to which these By-Laws are attached.

ARTICLE XI

LIABILITY SURVIVES TERMINATION OF MEMBERSHIP

The termination in the Condominium shall not relieve or release any such former owner or member from any liability or obligations incurred under or in any way connected with the Condominium during the period of such ownership and membership, or impair any rights or remedies which the Association may have against such former owner and member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

ARTICLE XII

PARLIAMENTARY RULES

Roberts Rules of Order (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Condominium Act, the Declaration of Condominium or these By-Laws.

ARTICLE XIII

CONSTRUCTION

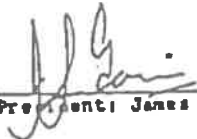
Wherever the masculine singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, wherever the context so requires.

Should any of the covenants herein imposed by void or be or become unenforceable by law or in equity, the remaining provisions of this instrument shall nevertheless be and remain in full force and effect.

The foregoing was adopted as the By-Laws of THE WILLIAM FLEMING HERISE  
CONJUNCTION ASSOCIATION, INC., at the first meeting of its Board of  
Directors.

  
Secretary: Michael Halpern SEAL

Approved:

  
President: James Garcia

350072

## ASSIGNMENT OF MORTGAGES

KNOW ALL MEN BY THESE PRESENTS, that CALLEON INVESTMENT, LTD., a Florida limited partnership, having its principal office at 2015 Cattlemen Road, Sarasota, Florida, in consideration of the sum of Ten (\$10.00) Dollars and other valuable considerations, the receipt whereof is hereby acknowledged, does hereby ASSIGN, TRANSFER and SET OVER to THE LIBERTY BANK FOR SAVINGS, a Connecticut corporation having its principal office at 315 Main Street, Middletown, Connecticut, all those mortgages described in Schedule A, annexed hereto, and by this reference made a part hereof, together with the notes secured thereby and all monies due and to become due on account of said notes from the date hereof.

TO HAVE AND TO HOLD, the same unto the said Liberty Bank for Savings, its successors and assigns, to its and their benefit forever.

AND Calleon Investment, Ltd, for itself, its successors and assigns, represents and warrants to The Liberty Bank for Savings, its successors and assigns, that the outstanding principal balances of the notes shown on Schedule A, annexed hereto, are in all cases true and correct and that no payment on account of any of said notes is more than Sixty (60) days past due.

IN WITNESS WHEREOF, Calleon Investment, Ltd., has caused this Assignment to be executed on its behalf this 24th day of August 1984.

Signed, Sealed and  
Delivered in the  
Presence of:

CALLEON INVESTMENT, LTD.  
A Florida Limited Partnership

By: E.E.S. Enterprises, Inc., a  
Florida Corporation, as General  
Managing Partner of Calleon  
Investment, Ltd.

By: Leo F. Thomas  
LEO F. THOMAS, Vice-President

DAVY L. JOHNSON  
CLK. CIR. CT.  
SARASOTA COUNTY, FLA.

24 AUG 24 11:51

FILED FOR RECORD

STATE OF FLORIDA:

COUNTY OF SARASOTA:

On the 24th day of August 1984, before me, personally appeared Leo F. Thomas to me known and to me to be the Vice-President of E.E.S. Enterprises, Inc., a Florida corporation, which corporation is the General Managing Partner of Calleon Investment, Ltd., a Florida limited partnership and the person who executed the within Assignment of Mortgages on behalf of said E.E.S. Enterprises, Inc., as General Managing Partner of Calleon Investment Ltd., and he acknowledged that said Assignment of Mortgages so executed by him to be his free act and deed in such capacity and the free act and deed of E.E.S. Enterprises, Inc., as such General Managing Partner and the free act and deed of Calleon Investment, Ltd.

IN WITNESS WHEREOF, I hereunto set my hand.

James A. Mc...  
Notary Public  
My commission expires:

Prepared by:  
James A. Mc...  
Quality Title Services, Inc.  
P.O. Box 6011

Effective 7/29/80

(SUBSTANTIAL REWRITE)

REC 919 PAGE 2054

REC 920 PAGE 1720

7D-15.03 Condominium Filing Statement.

STATE OF FLORIDA

DEPARTMENT OF BUSINESS REGULATION

DIVISION OF FLORIDA LAND SALES AND CONDOMINIUMS

725 South Bronough Street

Tallahassee, Florida 32301

Telephone (904) 488-0742

The filing fee of \$10.00 for each residential unit to be sold by the developer as provided by ss. 718.502(3), F.S., must accompany this statement. If the offering is a phase condominium, pursuant to s. 718.403, F.S., the fee shall be paid as each phase is filed with the Division. A developer may submit more than one phase with this initial filing statement by identifying those additional phases after the name of the condominium.

NOTE: If the Declaration of Condominium is not yet recorded, the developer should submit the recording information to the Division within 30 days of its recordation.

FOR STAFF USE ONLY.

Prospectus	Plot Plan	I.D. No.
Declaration	Floor Plan	Fee Rec'd
Articles	Budget	Form Review
By-Laws	Receipt Form	Recommended
Contract		Reviewed by

- 1) Name of Condominium THE WILLIAM FLEMING HOUSE, A CONDOMINIUM  
Street Address 800 Fleming Street  
City KEY WEST County MONROE State FLORIDA zip 35040
- 2) Name of Developer/Owner ATLANTIC PLANNING CORPORATION, A New York Corp.  
Address 800 Fleming Street City Key West County Monroe  
State FL zip 35040 Telephone 1 (305) 294-4714
- 3) Developer's Attorney/Agent MICHAEL HALPERN  
Address 2509 N. Roosevelt Blvd City Key West County Monroe  
State FL zip \_\_\_\_\_ Telephone 1 (305) 296-5687
- 4) Name of Condominium Association The William Fleming House Condominium Association, Inc.  
Address 800 Fleming Street City Key West County Monroe  
State FL zip 35040 Telephone 1 (305) 294-4714

3

	AGE :	ESTIMATED REMAINING LIFE
1. ROOF.	New :	50 years
2. ELEVATORS.	N/A :	.
3. HEATING AND COOLING SYSTEMS.	N/A :	
4. PLUMBING.	New :	25 years
5. ELECTRICAL SYSTEMS.	New :	25 years
6. SWIMMING POOL.	New :	25 years
7. SEAWALLS.	N/A :	
8. PAVEMENT AND PARKING AREAS.	New :	15 years
9. DRAINAGE SYSTEMS.	New :	50 years

ESTIMATED REPLACEMENT TOTAL

1. ROOF.	\$15,000.00
2. ELEVATORS.	N/A
3. HEATING AND COOLING SYSTEMS.	N/A
4. PLUMBING.	\$42,000.00
5. ELECTRICAL SYSTEMS.	\$40,000.00
6. SWIMMING POOL.	\$21,000.00
7. SEAWALLS.	N/A
8. PAVEMENT AND PARKING AREAS.	\$ 6,000.00
9. DRAINAGE SYSTEMS.	\$ 5,000.00

STRUCTURAL SOUNDNESS

1. ROOF.	New Sound
2. ELEVATORS.	N/A
3. HEATING AND COOLING SYSTEMS.	N/A
4. PLUMBING.	New Sound
5. ELECTRICAL SYSTEMS.	New Sound
6. SWIMMING POOL.	New Sound



919, PAGE 2096

7. SEAWALLS.	N/A
8. PAVEMENT AND PARKING AREAS.	New Sound
9. DRAINAGE SYSTEMS.	New Sound

ESTIMATED REPLACEMENT PER UNIT

1. ROOF.	\$1,666.67
2. ELEVATORS.	N/A
3. HEATING AND COOLING SYSTEMS.	N/A
4. PLUMBING.	\$4,666.67
5. ELECTRICAL SYSTEMS.	\$4,444.44
6. SWIMMING POOL.	\$2,333.33
7. SEAWALLS.	
8. PAVEMENT AND PARKING AREAS.	\$ 666.67
9. DRAINAGE SYSTEMS.	\$ 555.56

Vernon Page

Received in Official Property Book  
in Matter of  
DORIS V. V. 103  
DAINY L. STANGE  
Clerk Circuit Court

919 PAGE 2054

718.616 Disclosure of condition of building and  
estimated replace costs

The improvements have been constructed during 1984  
converting a warehouse to a nine (9) unit residential  
structure. The improvements are wood construction.  
The building was previously used as a furniture  
store and warehouse.

This instrument was prepared by  
DAVID H. ROGEL, ESQUIRE  
BECKER & POLIAKOFF, P.A.  
5201 Blue Lagoon Drive, Suite 100  
Miami, Florida 33126

RCD Feb 28 2000 02:00PM  
DANNY L. KOLHAGE, CLERK

CERTIFICATE OF AMENDMENT  
TO THE  
TO THE DECLARATION OF CONDOMINIUM  
OF  
WILLIAM FLEMING HOUSE, A CONDOMINIUM  
AND TO THE  
BY-LAWS  
AND  
ARTICLES OF INCORPORATION  
OF  
WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC.

WHEREAS, the Declaration of Condominium of William Fleming House Condominium was duly recorded in Official Records Book 919 at Page 2060 and re-recorded in Official Records Book 920 at Page 1720 of Monroe County, Florida; and

WHEREAS, WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC. (hereinafter the "Association") is the entity responsible for the operation of the aforementioned condominium; and

WHEREAS, at a duly called and convened meeting of the membership of the Association held on January 24, 2000, the amendment to the Declaration of Condominium and By-Laws as set out in Exhibit "A" attached hereto and incorporated herein was duly approved by a vote of the membership in excess of that required by the pertinent provisions of said Declaration of Condominium; and

WHEREAS, at a duly called and convened meeting of the membership of the Association held on January 25, 1999, the amendment to the By-Laws as set out in Exhibit "B" attached hereto and incorporated herein was duly approved by the requisite vote of the membership in excess of that required by the pertinent provisions of said Declaration of Condominium; and

NOW, THEREFORE, the undersigned hereby certifies that the amendment to the Declaration of Condominium, Articles of Amendment to the Articles of Incorporation and By-Laws as set out in Exhibit "A" and Exhibit "B" attached hereto and incorporated herein is a true copy of the amendments as approved by the requisite percentage of the membership of the Association.

WITNESS my signature hereto this 8<sup>th</sup> day of February, 2000 at Monroe County, Florida.

WILLIAM FLEMING HOUSE CONDOMINIUM  
ASSOCIATION, INC.

BY: Jules Eberhardt  
JULES EBERHARDT, President  
(Seal)

Dawnine Washington  
Witness

[Signature]  
Witness

STATE OF Illinois  
COUNTY OF Cook

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of February, 2000 by JULES EBERHARDT the President of WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC. a Florida not-for-profit corporation, on behalf of the corporation, who is personally known to me or has produced \_\_\_\_\_ as identification and who did/did not take an oath.

[Signature]  
NOTARY PUBLIC SIGNATURE

(SEAL)

My commission expires: 12/17/03

227446\_1.DOC W18731/63971

NOTARY PUBLIC SIGNATURE  
DIANE L. SCHWARTZ  
Notary Public, State of Illinois  
My Commission Expires 12-17-2003

EXHIBIT "A"  
AMENDMENT  
TO THE DECLARATION OF CONDOMINIUM  
OF  
WILLIAM FLEMING HOUSE, A CONDOMINIUM  
AND BY-LAWS AND  
AND ARTICLES OF INCORPORATION  
OF  
WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC.

(Additions shown by underlining; deletions by lined-through words)

1. Amendment to Article XXII, Section (C) of the Declaration of Condominium as follows:

"(C) Not use or permit the use of his unit for any purposes other than as a single family residence for himself and members of his family and social guests, or as a rental as a single family residence, for a rental period of not less than seven (7) days, in accordance with all governmental regulations and in accordance with Rules and Regulations of the Association as may be amended from time to time. Every unit owner shall and maintain his unit in a clean and sanitary manner.

2. Amendment to Article VI of the Articles of Incorporation as follows:

Section 1. The affairs of the corporation shall be managed and governed by a Board of Directors composed of ~~two (2)~~ three (3) members. The Directors, ~~subsequent to the first Board of Directors,~~ shall be elected at the annual meeting of the membership for a term of ~~one (1)~~ three (3) years, with terms to be staggered so that one (1) Director is elected for a full term at each annual meeting, or until their successors shall be elected and shall qualify. Provisions for such election, and provisions respecting the removal, disqualification and resignation of Directors and for filling vacancies on the Board ~~Directorate~~, shall be established by the By-Laws.

3. Amendment to Article IV, Section 1 and Section 3 to the By-Laws as follows:

"Section 1. Number, Term and Qualification. The affairs of the Association shall be governed by a Board of Directors composed of three (3) persons. All Directors, shall be members of the Association. All officers of a corporation unit owner shall be deemed to be members of the Association so as to qualify as Directors herein. The term of each Director shall be three (3) years, with terms to be staggered so that one (1) Director is elected at each annual meeting for a full term. Directors ~~elected~~ appointed to fill vacancies will serve the term remaining for that position in order to maintain staggered terms.

Section 3. Vacancies on Board of Directors. If the office of any Director or Directors becomes vacant by reason of any death, resignation, retirement, disqualification, removal from office or otherwise, the Board of Directors may ~~elect~~ appoint, at any regular or special meeting of the Board of Directors, a Director to fill the position ~~until the next annual meeting of the members, at which time, if the term for that position has not been completed, the members will elect a Director to complete the term,~~ which appointee will serve the remaining unexpired term.

**PROPOSED AMENDMENT  
TO THE DECLARATION OF CONDOMINIUM  
AND BY-LAWS OF  
WILLIAM FLEMING HOUSE, A CONDOMINIUM  
AND ARTICLES OF INCORPORATION  
OF  
WILLIAM FLEMING HOUSE CONDOMINIUM ASSOCIATION, INC.**

(Additions shown by underlining; deletions by lined-through words)

1. Proposed amendment to Article XXII, Section (C) of the Declaration of Condominium as follows:

"(C) Not use or permit the use of his unit for any purposes other than as a single family residence for himself and members of his family and social guests, or as a rental as a single family residence, for a rental period of not less than seven (7) days, in accordance with all governmental regulations and in accordance with Rules and Regulations of the Association as may be amended from time to time. Every unit owner shall and maintain his unit in a clean and sanitary manner.

2. Proposed amendment to Article VI of the Articles of Incorporation as follows:

Section 1. The affairs of the corporation shall be managed and governed by a Board of Directors composed of ~~two (2)~~ three (3) members. The Directors, ~~subsequent to the first Board of Directors,~~ shall be elected at the annual meeting of the membership for a term of ~~one (1)~~ three (3) years, with terms to be staggered so that one (1) Director is elected for a full term at each annual meeting, or until their successors shall be elected and shall qualify. Provisions for such election, and provisions respecting the removal, disqualification and resignation of Directors and for filling vacancies on the Board ~~Directorate~~, shall be established by the By-Laws.

3. Proposed amendment to Article IV, Section 1 and Section 3 to the By-Laws as follows:

"Section 1. Number, Term and Qualification. The affairs of the Association shall be governed by a Board of Directors composed of three (3) persons. All Directors, shall be members of the Association. All officers of a corporation unit owner shall be deemed to be members of the Association so as to qualify as Directors herein. The term of each Director shall be three (3) years, with terms to be staggered so that one (1) Director is elected at each annual meeting for a full term. Directors ~~elected~~ appointed to fill vacancies will serve the term remaining for that position in order to maintain staggered terms.

Section 3. Vacancies on Board of Directors. If the office of any Director or Directors becomes vacant by reason of any death, resignation, retirement, disqualification, removal from office or otherwise, the Board of Directors may ~~elect~~ appoint, at any regular or special meeting of the Board of Directors, a Director to fill the position ~~until the next annual meeting of the members, at which time, if the term for that position has not been completed, the members will elect a Director to complete the term, which appointee will serve the remaining unexpired term.~~