

Oceans

Atrium

Condominium

Association

Documents

5/3/88

INDEX TO DECLARATION OF CONDOMINIUM  
OCEANS ATRIUM

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EXHIBIT 1

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This Instrument Prepared By  
GLENN R. PADGETT  
Kinsey Vincent Pyle, P.A.  
ATTORNEYS AT LAW  
City Center East  
150 South Palmetto Avenue  
Daytona Beach, Florida 32018

FILED FOR RECORD  
RECORD VERIFIED

Dec 8 1 17 PM '87

*G. R. Padgett*

CLERK OF CIRCUIT COURT  
VOLUSIA COUNTY, FLORIDA

DECLARATION OF CONDOMINIUM  
AND SUBMISSION TO PROVISIONS OF  
RESTATEMENT OF AND FOURTH  
AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS  
OCEANS WEST PLANNED UNIT DEVELOPMENT  
OF  
OCEANS ATRIUM, a Condominium  
3023 South Atlantic Avenue  
Daytona Beach Shores, Florida 32018

This Declaration made this 8th day of December, 1987, by Bellemead Development Corporation, a Delaware corporation authorized to do business in Florida, hereinafter called Developer, for itself, its successors, grantees and assigns.

WHEREIN, the Developer makes the following declarations:

1 Purpose. One purpose of this Declaration is to submit and the Developer does hereby submit the lands described in this instrument and improvements on those lands to the condominium form of ownership and use in the manner provided by The Condominium Act, as it exists on the date hereof, presently designated as Chapter 718, Florida Statutes.

Another purpose of this Declaration is to submit and the Developer does hereby submit the lands described in this instrument to the applicable provisions of the Restatement of and Fourth Amendment to Declaration of Covenants and Restrictions, Oceans West Planned Unit Development and Notice of Provisions of Oceans West Homeowners Association, Inc., and exhibits recorded at Official Records Book 2775, Pages 0860 through 0904.

1.1 Name and address. The name by which this condominium is to be identified is Oceans Atrium, a Condominium, and its address is 3023 South Atlantic Avenue, Daytona Beach Shores, Florida. It is hereafter called "the condominium."

1.2 The land. The lands owned by Developer, which by this instrument are submitted to the condominium form of ownership and which are located outside of the confines of the Oceans West Planned Unit Development and which are hereby submitted to the lien rights of the association and are hereby granted the right to use the common areas of the Planned Unit Development, all in accordance with the terms and conditions of the Restatement of and Fourth Amendment to Declaration of Covenants and Restrictions, Oceans West Planned Unit Development and Notice of Provisions of Oceans West Homeowners Association, Inc., and exhibits recorded at Official Records Book 2775, Pages



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0860 through 0900, are located in Volusia County, Florida, and are described on Exhibit A attached hereto.

2 Definitions. The terms used in this Declaration and in its exhibits shall have the meanings stated in The Condominium Act and as follows unless the context otherwise requires:

2.1 Approval or consent. Whenever approval or consent is required of any person or entity, that approval or consent shall not be unreasonably withheld.

2.2 Association means Oceans Atrium Condominium Association, Inc., and its successors.

2.3 Bylaws means Bylaws of the Association and of the condominium.

2.4 Common elements shall include the items stated in The Condominium Act.

2.5 Common expenses include:

Expenses of administration; expenses of insurance, maintenance, operation, repair, replacement and betterment of the common elements, and of the portions of units to be maintained by the Association.

Expenditures for amounts of assessments by the Association against an individual unit for payment of costs that are the responsibility of a unit owner, including but not limited to costs of repair of damage to a unit in excess of insurance proceeds, and the costs of insurance upon a unit.

Expenses declared common expenses by provisions of this Declaration or the Bylaws.

Any valid charge against the condominium property as a whole.

2.6 Condominium means all of the condominium property as a whole when the context so permits, as well as the meaning stated in The Condominium Act.

2.7 Condominium parcel means a unit together with the undivided share in the common elements that is appurtenant to the unit; and when the context permits, the term includes all of the appurtenances to the unit.

2.8 Regulations means regulations respecting the use of the condominium property that have been adopted by the Association from time to time in accordance with its Bylaws.

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

2.10 Utility services as used in The Condominium Act and as construed with reference to this condominium, and as used in the Declaration and Bylaws, shall include but not be limited to electric power, gas, hot and cold water,

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VOLUSIA COUNTY

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heating, refrigeration, air conditioning, cable television or master antenna system, the closed circuit television, telephone security system, and garbage and sewage disposal.

2.11 Institutional mortgage. For the purposes of this instrument, an "institutional mortgage" shall be defined as a mortgage originally executed and delivered to a mortgage banking firm, bank, savings and loan association, real estate investment trust, insurance company or to Bellemoad Development Corporation and/or its subsidiaries and affiliates.

3 Development plan. The condominium is described and established as follows:

3.1 Survey. A survey of the land showing the location of the improvements on it with Surveyor's Certificate is attached as Exhibit B, Sheet 1.

3.2 Plans. The improvements upon the land are constructed substantially in accordance with the plans and specifications prepared by Larry W. Robinson, Architect, A.I.A. and designated as his Comm. No. 8420, a portion of which plans are attached as the following exhibits:

- Exhibit B, Sheet 2           Basement/Parking Garage Level
- Exhibit B, Sheet 3           First Floor Plan
- Exhibit B, Sheet 4           Typical Floor Plan
- Exhibit B, Sheet 5           Roof Plan
- Exhibit B, Sheet 6           Site plan
- Exhibit B, Sheet 7           North Elevation
- Exhibit B, Sheet 8           East Elevation
- Exhibit B, Sheet 9           West Elevation
- Exhibit B, Sheet 10          South Elevation

3.3 Easements. A non-exclusive easement for ingress and egress in favor of each unit owner is hereby created over the driveways, walks, parking areas, elevators, stairs, hallways, lobbies and other common areas as part of the common elements to provide each unit owner access to the public ways. No easement for ingress or egress shall be encumbered or subject in any way to be encumbered. Easements are reserved through the condominium property as may be required for utility services in order to serve the condominium adequately; provided, however, these easements through a unit shall be only according to the plans and specifications for the apartment building, or as may be changed during construction of the building, unless approved in writing by the apartment owner. The easements shall include but not be limited to the chases that run vertically through each unit as shown upon the floor plans. A unit owner shall do nothing within or outside his unit that interferes with or impairs the utility services using the easements. Developer reserves an easement over and through all of the common elements of the condominium for sales purposes and may maintain a sales office and models in the building until all of the units of the Developer have been sold. The last mentioned provision may not be amended without the written consent of Developer. During such time as the Developer, its successors or assigns, is in the process of

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construction on any portion of the condominium building; the Developer, its successors or assigns, reserve the right to prohibit access to any portion of the common elements of the condominium building to any of the occupants of the building, and to utilize various portions of the common elements of the building in connection with such construction and development. No unit owner or his guests, or invitees shall in any way interfere with or hamper the Developer, its employees, successors or assigns, in connection with such construction. Thereafter, during such time as the Developer, its successors or assigns, own any units within the building and is carrying on any business in connection therewith, including the selling, renting or leasing of such units, the unit owners, their guests and invitees shall in no way interfere with such activities or prevent access to such units by the Developer, its successors or agents. In order to maintain an orderly procedure for moving into the condominium, the Developer reserves the right which authority shall pass to the Association upon sale and closing of the last unit by the Developer to schedule the day and year which the owners or other occupants may move in, subsequent to the final closing on the sale of an individual unit. The building manager will prohibit owners or other occupants from moving in at any time other than the time designated by the Developer. The Association has full right and authority to grant permits, licenses, and easements over the common areas for utilities, road rights-of-way, and other purposes reasonably necessary or useful for the proper maintenance and/or operation of the Condominium.

### 3.4 Improvements - General description.

A. Apartment building. The condominium consists of a single apartment building herein referred to as the building consisting of a basement and parking garage level, a lobby or first floor and 11 additional floors, making a total of 12 floors and 13 levels. The building contains 78 living units. The common elements in the building include a covered automobile parking garage, an indoor swimming pool and other service and storage facilities.

B. Other improvements. The condominium includes landscaping, an outdoor swimming pool, outdoor automobile parking areas and other facilities located substantially as shown upon the plans and which are part of the common elements and confined to the surveyed condominium property.

3.5 Unit boundaries. Each unit consists of an apartment, the dimensions of which are shown on Exhibit B attached hereto and shall include that area, the title lines or boundaries of which are as follows:

A. Horizontal Boundaries. The upper and lower boundaries of the unit shall be the following boundaries extended to an intersection with the vertical boundaries:

1. Upper Boundary shall be the horizontal plane of the undecorated, finished ceiling.

2. Lower Boundary shall be the horizontal plane of the undecorated finished floor.

B. Vertical (Perimetrical) Boundaries. The vertical boundaries of the unit are the vertical planes of the undecorated and/or unfinished inner surfaces of the

walls bounding the unit extended to intersections with each other and with the unit's upper and lower boundaries. Exhibit B, Sheets 3 and 5 show the perimeter boundaries of the units and the approximate dimensions of such boundaries, the walls separating each room within the units and the approximate dimensions of each room and the location of all doorways.

C. Boundaries - Further defined. The boundaries of the unit shall not include all of those spaces and improvements lying within the undecorated and/or unfinished inner surfaces of the perimeter walls and those surfaces above the undecorated finished ceilings of each unit, and those surfaces below the undecorated finished floor of each unit, and further shall not include those spaces and improvements lying within the undecorated and/or unfinished inner surfaces of all interior bearing walls and/or bearing partitions, and further, shall exclude all pipes, ducts, wires, conduits and other utilities running through an interior wall or partition for the furnishing of utility services to other units and/or for common elements.

D. Balconies. All units except 101 shall include, as indicated in Exhibit B, a balcony. The boundaries of the balcony shall be the as follows: All horizontal and perimetrical boundaries shall be the same as set forth above; however should a perimetrical boundary be railing, then the unit shall include the railing and the boundary shall be the exterior surface of the railing. Maintenance of the finished floor of the balcony shall be borne by the owner of the unit to which the balcony is appurtenant. Each balcony is a part of the unit which it abuts and is for the exclusive use of the owners of the abutting unit; provided, however, no unit owner shall enclose any portion of the balcony, paint or otherwise decorate or change the appearance of any portion of the condominium building and/or condominium property.

### 3.6. Portions of the Unit Located Outside the Boundaries.

A. The unit shall include the heating, hot water and air conditioning apparatus exclusively serving the unit whether or not located within the boundaries of the unit.

B. The unit shall include any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture which lies partially within and partially outside the designated boundaries of a unit and which serves only that unit.

C. The unit shall include any shutters, awnings, window boxes, doorsteps, stoops, porches and all exterior doors and windows, (including sliding glass doors) window and door screens, and all other fixtures designed to serve a single unit, and which serves only that unit, even though such fixtures are located outside the unit's boundaries.

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walls bounding the unit extended to intersections with each other and with the unit's upper and lower boundaries. Exhibit B, Sheets 3 and 5 show the perimeter boundaries of the units and the approximate dimensions of such boundaries, the walls separating each room within the units and the approximate dimensions of each room and the location of all doorways.

C. Boundaries - Further defined. The boundaries of the unit shall not include all of those spaces and improvements lying within the undecorated and/or unfinished inner surfaces of the perimeter walls and those surfaces above the undecorated finished ceilings of each unit, and those surfaces below the undecorated finished floor of each unit, and further shall not include those spaces and improvements lying within the undecorated and/or unfinished inner surfaces of all interior bearing walls and/or bearing partitions, and further, shall exclude all pipes, ducts, wires, conduits and other utilities running through an interior wall or partition for the furnishing of utility services to other units and/or for common elements.

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### 3.6 Portions of the Unit Located Outside the Boundaries.

A. The unit shall include the heating, hot water and air conditioning apparatus exclusively serving the unit whether or not located within the boundaries of the unit.

B. The unit shall include any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture which lies partially within and partially outside the designated boundaries of a unit and which serves only that unit.

C. The unit shall include any shutters, awnings, window boxes, doorsteps, stoops, porches and all exterior doors and windows, (including sliding glass doors) window and door screens, and all other fixtures designed to serve a single unit, and which serves only that unit, even though such fixtures are located outside the unit's boundaries.

3.7 Common elements. All property included in the condominium which is not within any living unit and which has not been designated as a limited common area shall be deemed common elements.

A. Automobile parking. The basement and parking garage level of the building and part of the ground level as shown on Exhibit B, Sheets 3 and 4, shall be used for automobile parking. There are 77 covered parking spaces located on the basement and parking garage level of the building and one covered parking space on the upper parking level adjacent to the living unit on the first floor of the building. There are 37 other parking spaces on the upper parking level which are not covered and are for guest use. Covered parking spaces will be numbered so that there will not be less than 78 parking spaces. The right to use a covered parking space shall be an appurtenance to each unit, but the particular parking space or spaces to be so used shall be designated by the Developer, which authority shall pass to the Association upon sale and closing of the last unit by the Developer; provided that no change in the designation of parking spaces shall be made for the benefit of a unit owner that discriminates against another unit owner without the latter's consent. The Association shall have authority to make reasonable regulations for the control of automobile parking and the use of parking spaces; provided, however, that the use shall be limited to the residents of the condominium and their guests.

B. Recreation areas. The interior of the first floor of the building, other than the one apartment located thereon, the office, the mailroom, the storage room, the stairwells and the lobby, as well as the entire outdoor area on that level except the parking areas, shall be used for recreation purposes. The Association shall have authority to make reasonable regulations for that use, including authority to make reservations of portions thereof for the exclusive use of individual unit owners and their guests from time to time for limited periods and to make reasonable charges for that exclusive use, to the extent permitted by law.

C. Use; charges. The foregoing and all other common elements other than limited common elements, except as otherwise provided, shall be available for use by all unit owners without discrimination. That use will be without charge unless a charge is specifically authorized by this Declaration, except that the Association when permitted by law and authorized by its regulations may charge for the exclusive use of facilities from time to time if the exclusive use is made available to all unit owners. All revenue from those charges shall be treated as proceeds from assessments for common expenses and

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shall be applied to the payment of common expenses or added to common surplus.

4 The units. The units of the condominium are apartments and are described more particularly and the rights and the obligations of their owners are established as follows:

4.1. Unit numbers. The units of the condominium are apartments and are identified as apartments. On the first floor of the condominium there is one (1) apartment; on each floor above the first floor are seven (7) apartments numbered 01 to 07 inclusive; on each floor above the first floor the number 01 is assigned to the apartment located in the southwest corner of the building and the apartment numbering proceeds easterly along the south side of the building so that number 02 is immediately to the east of 01, number 03 is immediately to the east of 02, and number 04 is in the northeast corner of the building. The numbering along the south side of the building begins with number 05 in the southeast corner of the building, number 06 is between 05 and 07, and number 07 is in the southwest corner of the building. The apartments on each floor are distinguished from other apartments in the condominium by adding a prefix corresponding to the number of the floor upon which the apartment is located, so that the unit on the first floor is number 101, the units on the twelfth floor are numbered 1201 to 1207 and those in between are numbered correspondingly.

4.2 Typical unit plans. The plans for each floor of the building above the first floor are identical. The seven apartments on each of those floors are represented by seven typical apartment floor plans, which are set forth in Exhibit B, Sheet 3. The floor plan for the unit on the first floor of the building is set forth in Exhibit B, Sheet 5.

4.3 Appurtenances to units. The owner of each unit shall own a share and certain interests in the condominium property, which share and interests are appurtenant to his unit, including but not limited to the following items that are appurtenant to the several units as indicated:

A. Ownership of common elements and common surplus. The undivided share in the land and other common elements and in the common surplus that are appurtenant to each apartment is as follows:

Apartment 01 (except 101) and 04, (one bedroom apartments) an undivided 0.9890 share.	
22 apartments x 0.9890	= 21.7580
Apartment 02, 03, 05, 06 and 07, (two bedroom apartments) an undivided 1.4061 share. 55 apartments x 1.4061	= 77.3355
Apartment 101, an undivided .9065 share. 1 apartment x .9065	= .9065
Total	100.0000%



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B. Use of common elements. Use of the common elements in common with other unit owners in the manner elsewhere described;

C. Use of limited common elements. Use of limited common elements appurtenant to the unit, in the manner elsewhere described.

D. Condominium Association membership. The membership of each unit owner in the Condominium Association and the interest of each unit owner in the funds and assets held by the Condominium Association.

E. P. U. D. The membership of each unit owner in the Homeowners Association and the interest of each unit owner in the funds and assets held by the Homeowners Association.

4.4 Liability for common expenses. Each unit owner shall be liable for a proportionate share of the common expenses, that share being the same as the undivided share in the common elements appurtenant to his unit.

5 Maintenance, alteration and improvement. Responsibility for maintenance of the condominium property, and restrictions upon its alteration and improvement, shall be as follows:

5.1 Units.

A. By the Association. The Association shall maintain, repair and replace at the Association's expense:

All boundary walls and boundary slabs of a unit, except interior surfaces; all portions of a unit contributing to the support of the apartment building, which portions to be maintained shall include but not be limited to the outside walls of the apartment building and all fixtures on its exterior, boundary walls of units, floor and ceiling slabs, load-bearing columns and load-bearing walls, and the lobby side of all doors leading from units to common elements;

Balconies, except the painting of floors;

All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services contained in the portions of a unit maintained by the Association; and all such facilities contained within a unit that service part or parts of the condominium other than the unit within which contained; and

All incidental damage caused to a unit by this work shall be repaired promptly at the expense of the Association;

Provided that the Association shall have authority to require unit owners at their expense to maintain, repair and replace screens and glass for windows and glass doors within their respective units except in the case of damage for which insurance proceeds are paid under policies purchased by the Association.

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B. By the Unit owner. The responsibility of the unit owner shall be as follows:

To maintain, repair and replace at his expense all portions of his unit except the portions to be maintained, repaired and replaced by the Association. This shall be done without disturbing the rights of other unit owners.

The portions of a unit to be maintained, repaired and replaced by the unit owner at his expense shall include but not be limited to the following items: windows, screens, sliding glass doors, air handling equipment for space cooling and heating, service equipment, such as dishwasher, refrigerator, oven and stove, whether or not these items are built-in equipment; interior fixtures such as electrical and plumbing fixtures; floor coverings except the floor slab, and inside paint and other inside wall and ceiling finishes. Mechanical equipment and the installation of that equipment shall be such that its operation will not cause annoyance to the occupants of other units.

To report promptly to the Association any defect or need for repairs for which the Association is responsible.

C. Alteration and improvement. Except as elsewhere provided, neither a unit owner nor the Association shall make any alteration in the portions of a unit that are to be maintained by the Association, or remove any portion of them, or make any additions to them, or do anything that would jeopardize the safety or soundness of the apartment building, including but not limited to, drilling, boring, cutting or sawing into the floor or ceiling of a unit, or impair any easement without first obtaining approval in writing of owners of all units in which the work is to be done and the owners of all units affected by the work to be done and the approval of the Board of Directors of the Association. If the alteration or improvement will change the appearance of any portion of the exterior of the apartment building, the change in appearance shall be approved also by the owners of 75% of the common elements at a meeting of unit owners called for that purpose. A copy of plans for all work prepared by an architect licensed to practice in this State shall be filed with the Association prior to the start of the work. Developer reserves the right to change the interior design and arrangement of all units as long as Developer owns the unit so changed and altered, provided such change shall be contained in an amendment of this Declaration, and provided, further, that an amendment for such purpose need be executed and acknowledged only by the Developer and approved by the institutional mortgagee, if any, and need not be approved by the Association, its officers, directors and members, or unit owners, whether or not elsewhere required for an amendment to this Declaration. Developer reserves the right to alter the boundaries between units, so long as Developer owns the units so altered; to increase or decrease the number of units, and to alter the boundaries of the common elements, as long as the Developer owns the units abutting the common elements where the boundaries are being altered, provided no such change shall be made without amendment of this Declaration, and, provided further, that an amendment for such purpose need be executed and acknowledged only by the Developer and approved by any institutional mortgagee of an institutional mortgage covering

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the units affected, whether the said units are encumbered by original mortgages, or whether they are included in an overall construction mortgage on the condominium property, but such amendment shall not require the approval of the Association, its officers, directors and members, or unit owners.

#### 5.2 Common elements.

A. By the Association. The maintenance and operation of the common elements shall be the responsibility of the Association and the cost shall be a common expense.

B. Alteration and improvement. After the completion of the improvements included in the common elements contemplated by this Declaration, there shall be no alteration nor further improvement of the common elements or acquisition of additional common elements without prior approval in writing by the owners of not less than 75% of the common elements, except as provided by the Bylaws. Any such alteration or improvement shall not interfere with the rights of any unit owners without their consent.

C. Disposition of personal property. Any personal property acquired by the Association may be sold or mortgaged or otherwise disposed of by the Association.

6 Assessments. The making and collection of assessments against unit owners for common expenses shall be pursuant to the Bylaws and subject to the following provisions:

6.1 Share of common expense. Each unit owner shall be liable for a proportionate share of the common expenses and, in event of default, for interest and costs of collection including reasonable attorney's fees, and shall share in the common surplus, those shares being the same as the undivided share in the common elements appurtenant to the units owned by him. Each assessment against a unit is the personal obligation of the unit owner or owners at the time the assessment become due. Such personal obligation shall not pass to successors in title unless assumed by them or required by law.

6.2 Interest; application of payments. The portions of assessments and installments on assessments that are not paid when due shall bear interest at the rate of the highest percentage allowed by law from the date when due until paid. All payments upon account shall be applied first to interest and then to the assessment payment first due.

6.3 Liens. The Association shall have a lien upon a unit for any assessment and installments on assessments levied against that unit and a lien for such other charges against the unit as may be authorized by this Declaration or in the Bylaws of the Association, together with interest thereon, which are not paid when due. The lien for unpaid assessments shall secure reasonable attorneys' fees, including but not limited to fees for appellate court representation, incurred by the Association incident to the collection of an assessment or enforcement of a lien. The lien for unpaid assessments is and shall be subordinate to the lien of an institutional

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mortgage in a first mortgage which was recorded prior to the assessment becoming payable.

6.4 Assessments against developer-owned units. During such time as the Developer owns one (1) or more units, the assessments, as provided for in subparagraph 6.1 of this Article, shall never be more than the estimated sums necessary to pay for the current budgeted operating expenses and reserves. In the event any excess is paid, the Association will refund such excess to the unit owners including the Developer upon demand. Notwithstanding any of the foregoing provisions respecting assessments, during the period of time beginning with the date the first unit is closed and titled out to a unit purchaser and ending on the date control of the Association is turned over to unit owners other than the Developer, the Developer shall not be obligated to pay the share of the common expenses and assessments attributable to units it is offering for sale, provided that the regular monthly assessment for common expenses imposed on each unit owner other than the Developer shall not increase during such period over the amount set opposite such unit's numerical designation in the Estimated Operating Budget contained in the Prospectus delivered to the original unit owner when such owner contracted to purchase the unit, if applicable, and provided further that the Developer shall be obligated to pay any amount of common expenses incurred during such period and not produced by the assessments at the guaranteed level, receivable from other unit owners. After the expiration of said period, all assessments and the individual unit owners' and the Developer's responsibility as to assessments shall be as is otherwise provided for herein.

6.5 Protection of institutional mortgagee. Where an institutional mortgagee of record obtains title to a condominium unit or where any other purchaser obtains such title as a result of the foreclosure by an institutional mortgagee of record, or where said institutional mortgagee or its designee accepts a deed to said condominium unit in lieu of foreclosure, such acquirer of the title, his heirs, legal representatives, successors and assigns, shall not be liable for the share of common expenses or assessments by the Association pertaining to such condominium unit or chargeable to the former owners of such unit which became due prior to acquisition of title thereto as a result of the foreclosure and issuance of a Certificate of Title pursuant thereto, or the acceptance of such deed in lieu of foreclosure. Such unpaid share of common expenses or assessments shall be, if possible, collected from the proceeds of the mortgage sale, if any, which would otherwise accrue to the benefit of the unit owner against whom the foreclosure proceedings were maintained, or in the event there are not sufficient funds available for such purpose, then such unpaid share of common expenses or assessments shall be determined to be common expenses collectible from all of the unit owners including such acquirer, his heirs, legal representatives, successors and assigns. The lien for assessments and/or dues first becoming due and payable after the recording of said certificate or deed shall not be impaired and shall be effective as to the grantee of such Certificate of Title.

6.6 Rights of construction lender. If the lender which is providing the funds to construct the condominium shall foreclose the lien of its mortgage or shall accept a deed in lieu of foreclosure to itself or its designee, such

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lender or its designee shall succeed to the rights and enjoy all of the benefits of the original Developer hereunder.

7 Association. The operation of the condominium shall be by Ocean's Atrium Condominium Association, Inc., a corporation not for profit under the laws of Florida, which shall fulfill its functions pursuant to the following provisions:

7.1 Membership. The Developer and all persons hereafter owning a vested present interest in the fee simple title to any of the units shown on the exhibits hereto and which interest is evidenced by recording of a proper instrument in the Public Records of Volusia County, Florida, shall automatically be members and their membership shall automatically terminate when they no longer own such an interest.

7.2 Voting rights. There shall be a total of 78 votes to be cast by the owners of the condominium units. Such votes shall be apportioned and cast as follows: The owners of each condominium unit (designated as such on the exhibits attached to this Declaration) shall be entitled to cast one (1) vote. Where a condominium unit is owned by the Association, no vote shall be allowed for such condominium unit. Where a condominium unit is owned by a corporation or by more than one person, the entity or all the owners thereof shall be collectively entitled to the vote assigned to such unit and such owners shall, in writing, filed with the Association, designate an individual who shall be entitled to cast the vote on behalf of the owners of such condominium unit until such authorization shall have been changed in writing. The term "owner" as used herein shall be deemed to include the Developer.

7.3 Articles of Incorporation. The Articles of Incorporation of the Association are attached as Exhibit C.

7.4 The Bylaws of the Association shall be the Bylaws, a copy of which are attached as Exhibit D.

7.5 Limitation upon liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable to unit owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or other owners or persons.

7.6 Rosters.

A. Owners of units. The Association shall maintain a roster of names and mailing addresses of unit owners. The roster shall be maintained from evidence of ownership furnished from time to time. Each unit owner shall furnish to the Association a copy of the record evidence of his title, which evidence shall entitle the unit owner to be included in the roster if his ownership has been approved by the Association in the manner elsewhere required. Such roster shall show the name and mailing address of the individual designated in writing by the unit owner(s) as entitled to cast the

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vote assigned to the unit on behalf of the owners.

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B. Mortgagees. The Association shall maintain a roster that shall contain the name and address of each owner and holder of a mortgage upon a unit in the condominium of which notice is given to the Association. This notice shall consist of a copy of the recorded instrument evidencing the interest of the mortgagee, which term when used in this Declaration shall include any owner and holder of a mortgage. The mortgagee shall be stricken from the roster upon receipt by the Association of a request from the mortgagee or of a certified copy of a recorded release or satisfaction of the mortgage. Notice of the removal shall be given to the mortgagee unless the removal is requested by the mortgagee.

C. Covered Garage parking space assignments. The Association shall maintain a roster that shall contain a listing of the covered parking space assigned to each unit, which shall list each unit in numerical order and show the parking space assigned to it and separately list each parking space in numerical order and show the unit number to which it is assigned.

7.7 Restraint upon assignment of shares in assets. The share of a unit owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his unit.

7.8 Approval or disapproval of matters. Whenever the decision of a unit owner is required upon any matter, whether or not the subject of an Association meeting, that decision shall be expressed by the same person who would cast the vote of that owner if in an Association meeting, unless the joinder of record owners is specifically required by this Declaration.

B Insurance. The insurance other than title insurance that shall be carried upon the condominium property and the property of the unit owners shall be governed by the following provisions:

A. Purchase. All insurance policies upon the condominium property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida.

B. Named insured. The named insured shall be the Association individually and as agent for the owners of units covered by the policy without naming them, and shall include mortgagees listed in the roster of mortgagees who hold mortgages upon units covered by the policy whether or not the mortgagees are named. Unit owners may obtain insurance coverage at their own expense upon their personal property and for their personal liability and living expense.

C. Custody of policies and payment of proceeds. All policies shall provide that payments for losses made by the insurer shall be paid to the Association, and all policies and endorsements on them shall be held by the Association.

D. Approval of company issuing and form of policies, etc. Each policy shall be in a form and amount and written by an insurance company approved by the institutional mortgagee having the greatest number of mortgages in the condominium and, if there are no institutional mortgages, by the Board of Directors of the Association. A copy of each policy shall be furnished each institutional mortgagee upon request.

#### 8.1 Coverages.

A. Casualty. The condominium building and all units and improvements upon the land shall be insured in an amount equal to the maximum insurable replacement values. The coverage shall exclude foundation and excavation costs, that part of the value of each unit occasioned by special improvement not common to units otherwise comparable in construction and finish; and all increases in value of units occasioned by alterations, betterments and further improvement. All personal property included in the common elements shall be covered by such insurance. Values of insured property shall be determined annually by the Board of Directors of the Association after receiving the advice of the insurance carrier writing the insurance. Insurance coverage shall afford protection against:

Loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and

Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the building on the land, including but not limited to insurance covering flooding, vandalism and malicious mischief. The bailce liability, if any, of the Association to unit owners shall be insured. The policy coverages shall include fixtures, improvements and alterations comprising a part of the building and refrigerators, air conditioners, cooking ranges, dishwashers and clothes washers and dryers, contained within units, and owned by the named insured or unit owner, all while at the designated premises. The policies shall state whether the following items are included within the coverage in order that unit owners may insure themselves if the items are not insured by the Association: air handling equipment for space cooling and heating; service equipment, such as dishwasher, refrigerator, oven, stove, and water heater, whether or not those items are built-in equipment; interior fixtures such as electrical and plumbing fixtures; floor coverings except the floor slabs, and inside paint and other inside wall and ceiling finishes.

When appropriate and possible, the policies shall waive the insurer's right to:

Subrogation against the Association and against the unit owners individually and as a group;

The pro-rata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; and

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Avoid liability for a loss that is caused by an officer and Board of Directors of the Association, or by a member of the Board of Directors of the Association or by one or more unit owners.

B. Public liability in such amounts and with such coverage as shall be required by the Board of Directors of the Association, including but not limited to hired automobile and non-owned automobile coverages, and with cross liability endorsement to cover liabilities of the unit owners as a group to a unit owner.

C. Worker's compensation policy to meet the requirements of law.

D. Officer and directors indemnification insurance as provided in the Bylaws.

E. Fidelity bond. Fidelity bonding of all officers and directors of the Association who control or disburse the funds of the Association in such amount as may be determined by the Board of Directors, or, in the event insurance proceeds are payable to the Association as provided in Section 8.4 of this Declaration, then such fidelity bonding shall be increased by the amount of the insurance proceeds and maintained at such amount until such proceeds have been disbursed in the manner elsewhere stated in this instrument at which time the Board of Directors may again determine the amount.

F. Other insurance may be purchased as the Board of Directors of the Association shall determine from time to time to be desirable.

8.3 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense, except that the amount of increase in the premium occasioned by use for other than a residence, or misuse, occupancy or abandonment of a unit or its appurtenances or of the common elements by a unit owner shall be assessed against and paid by that owner. Evidence of the payment of premiums shall be furnished by the Association to each mortgagee listed in the roster of mortgagees. In the event the Association fails to procure such insurance and pay the premiums, the mortgagee with the greatest number of mortgages in the condominium shall have the right to order and pay for such policies and be subrogated to the assessment and lien rights of the Association for such payment.

8.4 Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the unit owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Association. Such insurance policies shall contain a provision that the proceeds covering property losses shall be paid over to the Association only after the Association has provided proof that the fidelity bonding of the officers and directors of the Association has been increased by the amount of such proceeds. The duty of the Association shall be to receive and hold the insurance proceeds and other funds that are paid to it in trust for the purposes elsewhere stated in this instrument and for the benefit of the unit owners and their mortgagees.



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A. Unit owners - an undivided share for each unit owner, that share being the same as the undivided share in the common elements appurtenant to his unit.

B. Mortgagees. In the event the Association has notice of a mortgage on the unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed, or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions of proceeds made to the unit owner and mortgagee.

8.5 Distribution of proceeds. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the beneficial owners in the manner hereafter provided in the section entitled "Reconstruction or repair after casualty."

8.6 Association as agent. The Association is irrevocably appointed agent for each unit owner and for each owner of a mortgage or other lien upon a unit and for each owner of any other interest in the condominium property, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

8.7 Benefit of mortgagee. Certain provisions in this section entitled "Insurance" are for the benefit of mortgagees of condominium parcels. All of these provisions are covenants for the benefit of any mortgagee of a unit and may be enforced by that mortgagee.

## 9 Reconstruction and repair after casualty.

9.1 Determination whether to reconstruct and repair. Whether or not condominium property damaged by casualty shall be reconstructed and repaired shall be determined in the following manner:

A. Lesser damage. If units to which 50% of the common elements are appurtenant are found by the Board of Directors of the Association after receiving the opinion of the mortgagee with the greatest number of mortgages in the condominium and receiving the opinion of an architect licensed to practice in this State, to be tenantable after the casualty, the damaged property shall be reconstructed and repaired.

B. Major damage. If units to which more than 50% of the common elements are appurtenant are found by the Board of Directors of the Association after receiving the opinion of the mortgagee with the greatest number of mortgages in the condominium and receiving the opinion of an architect licensed to practice in this State, to be not tenantable after the casualty, whether the damaged property will be reconstructed and repaired or the condominium terminated shall be determined in the following manner:

Immediately after the determination of the amount of insurance proceeds, the Association shall give notice to all unit owners of the casualty, the

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extent of the damage, the estimated cost to rebuild and repair, the amount of insurance proceeds and the estimated amount of assessments required to pay the excess of the cost of reconstruction and repair over the amount of insurance proceeds.

The notice shall call a meeting of unit owners to be held within thirty (30) days from the mailing of the notice.

If the reconstruction and repair is approved at the meeting by the owners of 75% of the common elements, the damaged property will be reconstructed and repaired; but if not so approved, the condominium shall be terminated without requirement of agreement as elsewhere provided. Mortgagees holding mortgages on any of the units may appear at such meeting in person or by a representative and express their views.

The approval of a unit owner may be expressed by vote or in writing filed with the Association at or prior to the meeting.

The expense of this determination shall be assessed against all unit owners as a common expense.

C. Certificate. The unit owners may rely upon a certificate of the Association made by its president and secretary to determine whether or not the damaged property is to be reconstructed and repaired.

9.2 Report of damage. If any part of the condominium property shall be damaged and insurance proceeds or other funds are paid to the Association on account of the damage, a report of the damage shall be submitted by the Association to the unit owners and mortgagees as shown by the records of the Association. The report shall include the following information:

Date and cause of damage.

Whether the damaged property will be reconstructed and repaired or the condominium terminated.

If the damaged property will be reconstructed and repaired, the report shall include the following information:

Schedule of damage for which the Association has responsibility for reconstruction and repair and the estimated costs of reconstruction and repair.

Whether damaged property for which the Association has responsibility for reconstruction and repair includes structural parts of a building.

Schedule of damage for which unit owners have the responsibility for reconstruction and repair and the estimated costs of each owner for reconstruction and repair.

The report of damage shall be substantiated by an attached report of an architect qualified to practice in this state.

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9.3 Responsibility for reconstruction and repair. A responsibility for reconstruction and repair after casualty shall be the same as for maintenance and repair of the condominium property as provided in the section entitled "Maintenance, alteration and improvement."

9.4 Plans and specifications. Any reconstruction and repair must be substantially in accordance with the plans and specifications for the original improvements, portions of which are attached as exhibits; or, if not, then according to plans and specifications approved by the Board of Directors of the Association, and if the damaged property is the apartment building, by the owners of not less than 75% of the common elements, including the owners of all units the plans for which are to be altered.

9.5 Assessments; determination of sufficiency of funds.

A. Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair for which the Association is responsible, or if at any time during that work or upon completion of the work the funds available for the payment of the costs are insufficient; assessments shall be made by the Association against all unit owners in sufficient amounts to provide funds for the payment of those costs. The assessments shall be made as for a common expense, except that the cost of construction, reconstruction and repair occasioned by special improvement made at the request of the owner and not common to other units shall be assessed to the owner of the unit.

B. Determination of sufficiency of funds. If the estimated costs of reconstruction and repair for which the Association is responsible do not exceed \$10,000, the sufficiency of funds to pay the costs shall be determined by the Board of Directors of the Association and the sums paid upon the assessments shall be held by the Association. If the estimated costs exceed \$10,000, the sufficiency of funds to pay the costs shall be determined by an architect qualified to practice in Florida and employed by the Association to supervise the work, and the sums paid upon the assessments shall be held by the Association.

9.6 Disbursement of funds. The funds held by the Association after a casualty, which will consist of proceeds of insurance and the sums collected from assessments against unit owners on account of the casualty, shall be disbursed in the following manner and order:

A. Termination of the condominium. If the condominium is terminated, either by agreement after lesser damage or by failure of the unit owners to approve reconstruction and repair after major damage, the remaining funds shall be deemed to be condominium property and shall be owned by the unit owners as tenants in common in the undivided shares in which they own the common elements prior to the termination. The balance of the funds shall be distributed to the beneficial owners as deemed appropriate by the Association in the amounts certified by the Association, remittances to unit owners and their mortgagees being made payable jointly to them.

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B. Reconstruction and repair of damage. If the damaged property is reconstructed and repaired, the funds shall be disbursed in the following manner:

By Association - damages of \$10,000 or less. If the estimated costs of reconstruction and repair that is the responsibility of the Association do not exceed \$10,000, the funds shall be disbursed in payment of these costs upon the order of the Association; provided, however, the funds shall be disbursed in the manner hereafter provided for the reconstruction and repair of damage of more than \$10,000 if the damaged property includes structural parts of a building, or if requested by a mortgagee that is a beneficiary of an insurance policy the proceeds of which are included in the funds.

By Association - damage of more than \$10,000. If the estimated costs of reconstruction and repair that is the responsibility of the Association exceed \$10,000, the funds shall be disbursed in payment of these costs in the manner required by the Board of Directors of the Association; provided, however, that an architect qualified to practice in Florida and employed by the Association to supervise the work shall approve all disbursements as being due and properly payable.

By unit owners. If there is a balance of insurance proceeds after payment of costs of reconstruction and repair that is the responsibility of the Association, this balance shall be distributed to owners of damaged units who have responsibility for reconstruction and repair of their units. The distribution shall be in the shares that the estimated cost of reconstruction and repair of this damage in each damaged unit bears to the total of these costs in all damaged units; provided, however, that no unit owner shall be paid an amount in excess of the estimated costs for his unit. If there is mortgage upon a unit, the distribution shall be paid to the unit owner and the mortgagee jointly and they may use the proceeds as they may determine.

Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance remaining after payment of the costs for which the funds are collected, the balance shall be distributed to the beneficial owners of the funds, remittances to unit owners and their mortgagees being made payable jointly to them; provided, however, that the part of a distribution to a unit owner that is not in excess of assessments paid by that owner into the funds shall not be made payable to any mortgagee.

C. Reliance upon certificates. The Board of Directors of the Association shall make a determination as to the existence of certain facts upon which the distribution of funds is conditioned and a certificate of the Association executed by its president and secretary, copies of which shall be provided to each unit and owner and their mortgagees, stating:

Whether the damaged property will be reconstructed, repaired or the condominium terminated.

Whether or not assessments will be made against unit owners.

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That sums to be paid are due and properly payable, the name of the payee and the amount to be paid.

The names of unit owners to receive distribution of funds and the amounts to be distributed to them; provided, however, that when a mortgagee is required by this instrument to be named as payee of a distribution to a unit owner, the Association also shall name the mortgagee as payee of any distribution of insurance proceeds to a unit owner.

D. Proviso. Provided, however, that under the following circumstances the approval of the architect elsewhere required shall be first obtained by the Association upon disbursements in payment of costs of reconstruction and repair:

When the report of damage shows that the damaged property includes structural parts of a building.

When the report of damage shows that the estimated costs of reconstruction and repair that is the responsibility of the Association exceed \$10,000.

If required by the Association or by a mortgagee that is a beneficiary of an insurance policy the proceeds of which are included in the funds to be disbursed.

9.7 Benefit of mortgagees. Certain provisions in the section entitled "Reconstruction or repair after casualty" are for the benefit of mortgagees of condominium parcels. All of these provisions are covenants for the benefit of any mortgagee of a unit and may be enforced by the mortgagee.

10 Use restrictions. The use of the condominium property shall be in accordance with the following provisions as long as the condominium exists and the apartment building in useful condition exists upon the land.

10.1 Units. Each of the units shall be utilized for residential purposes only by only one family, its servants and guests, and used as a residence and for no other purpose. "Family" as used herein shall have the meaning set forth in the Code of Ordinances of the City of Daytona Beach Shores, Florida, Section 200.00(36) (1977).

10.2 Common elements. The common elements shall be used only for the purpose for which they are intended in the furnishing of services and facilities for the enjoyment of the units by their occupants.

10.3 Nuisances. No nuisances shall be allowed upon the condominium property, nor any use or practice that is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the condominiums shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate nor any fire hazard allowed to exist. No unit owner shall permit use of his unit or make any use of the common elements that will increase the cost of insurance upon the condominium property above that required when the

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unit is used for the approved purposes.

10.4 Exterior appearance. No clothes, sheets, blankets, laundry of any kind, or other articles shall be hung out or exposed from any apartment balcony or common element. Nothing shall be hung or displayed on the outside walls of the apartment building and no awning, canopy, shade, window guard, ventilator, fan, air conditioning device, radio or television antenna may be affixed to or placed upon the exterior walls or roof or any part thereof without the prior consent of the Association. No materials of any nature or description including but not limited to window film for sun and heat control may be affixed, adhered or otherwise caused to remain on the interior or exterior of any apartment window or door. All draperies and curtains of each apartment must be lined with a white material so that the windows and doors, when viewed from the exterior of the building will have a uniform and attractive appearance, and all exterior wall surfaces of the condominium will be painted white.

10.5 Lawful use. No immoral, improper, offensive, or unlawful use shall be made of the condominium property nor any part of it; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies for maintenance, modification or repair of the condominium property shall be the same as the responsibility for the maintenance and repair of the property concerned.

10.6 Leasing. Entire units may be leased or rented provided the occupancy is by only one family, its servants and guests.

10.7 Regulations. Reasonable regulations concerning the appearance and use of condominium property may be made and amended from time to time by the Association in a manner provided by its Articles of Incorporation and Bylaws. Copies of those regulations and amendments shall be furnished by the Association to all unit owners and residents of the condominium upon request.

10.8 Proviso. Provided, however, that until Developer has closed the sales of all of the units and of the condominium, neither the unit owners nor the Association nor the use of the condominium property shall interfere with the sale of the units. Developer may make such use of the unsold units and common areas without charge as may facilitate the sale, including but not limited to maintenance of a sales office, the showing of the property and the display of signs.

11 Maintenance of community interests. In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the units, the transfer of units by any owner other than the Developer shall be subject to the following provisions as long as the condominium exists and the apartment building in useful condition exists upon the land, which provisions each unit owner covenants to observe:

11.1 Transfers subject to approval.

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A. Sale. No unit owner of a unit may dispose of a unit or any interest in a unit by sale without approval of the Association except to the owner of another unit.

B. Lease. No unit owner may dispose of a unit or any interest in a unit by lease for a term longer than one (1) year without approval of the Association except to the owner of another unit.

C. Gift. If any unit owner shall acquire his title by gift, the continuance of his ownership of his unit shall be subject to the approval of the Association. Section 11, however, shall not apply to gifts by a unit owner to a member of his immediate family (viz. spouse, children or parents).

D. Other transfers. If any unit owner shall acquire his title by any manner not considered in the foregoing subsections, other than by devise or inheritance, the continuance of his ownership of his unit shall be subject to the approval of the Association.

11.2 Approval by Association. The approval of the Association that is required for the transfer of ownership of units shall be obtained in the following manner:

A. Notice to Association.

Sale. A unit owner intending to make a bona fide sale of a unit or any interest in it shall give to the Association notice of that intention, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as the Association may reasonably require. The notice at the unit owner's option may include a demand by the unit owner that the Association furnish a purchaser of the unit if the proposed purchaser is not approved, and if that demand is made, the notice shall be accompanied by an executed copy of the proposed contract to sell.

Lease. A unit owner intending to make a bona fide lease of unit for a term longer than one (1) year shall give to the Association notice of that intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as the Association may reasonably require, and a certified copy of the instrument evidencing a transferee's title.

Gifts and other transfers. A unit owner intending to make a gift of a unit or any interest in a unit, and a unit owner who has obtained his title by gift, or by any other manner not previously approved by the Association, shall give to the Association notice of the proposed gift or of the acquiring of title, together with such information concerning the transferee as the Association may reasonably require, and a certified copy of the instrument evidencing a transferee's title.

Failure to give notice. If the above required notice to the Association is not given, then at any time after receiving knowledge of a transaction or

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event transferring ownership or possession of a unit, the Association at its election and without notice may approve or disapprove the transaction or ownership. If the Association disapproves the transaction or ownership, the Association shall proceed as if it had received the required notice on the date of that disapproval.

**Costs.** A unit owner who is required to give notice to the Association of a transfer of ownership shall pay a reasonable fee to the Association in an amount determined by the regulations, but not to exceed \$50, to cover the costs incident to the determination by the Association. The fee shall be paid with the giving of the notice, and the notice shall not be complete unless the fee is paid; and if the notice is not given, the fee shall be assessed against the party owning the unit at the time of assessment.

**B. Certificate of approval.**

**Sale.** If the proposed transaction is a sale, then within fifteen (15) days after receipt of the notice and information the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the president and secretary of the Association in recordable form. The certificate shall be recorded in the Public Records of Volusia County, Florida at the expense of the purchaser.

**Lease.** If the proposed transaction is a lease for a term longer than one (1) year, then within fifteen (15) days after receipt of the notice and information the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the president and secretary of the Association in recordable form, which, at the election of the Association, shall be delivered to the lessee or shall be recorded in the Public Records of Volusia County, Florida at the expense of the lessee.

**Gifts and other transfers.** If the notice is of an intended gift or the unit owner giving notice has acquired his title by gift, or in any other manner not previously approved by the Association, then within fifteen (15) days after receipt of the notice and information the Association must either approve or disapprove the donee or the continuance of the transferee's ownership of his unit. If approved, the approval shall be stated in a certificate executed by the president and secretary of the Association in recordable form. The certificate shall be recorded in the Public Records of Volusia County, Florida at the expense of the unit owner.

**11.3 Disapproval by the Association.** If the Association shall disapprove a transfer of ownership of a unit, the matter shall be treated in the following manner:

**A. Sale.** If the proposed transaction is a sale and if the notice of sale given by the unit owner shall so demand, then within fifteen (15) days after receipt of the notice and information the Association shall deliver or mail by certified mail to the unit owner an agreement signed by a purchaser approved by the Association and obligating the purchaser to buy the unit upon the terms



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hereafter stated. The seller shall be obligated to the purchaser upon the following terms:

At the option of the purchaser to be stated in the agreement, the price to be paid shall be that stated in the disapproved contract or sell or shall be the fair market value determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the unit; and a judgment of specific performance of the sale upon the decision rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

The purchase price shall be paid in cash, or upon terms approved by the seller.

The sale shall be closed within thirty (30) days after the delivery or mailing of the agreement to purchase, or within ten (10) days after the determination of the sale price if it is by arbitration, whichever is the later.

A certificate of the Association executed by its president and secretary and approving the purchaser shall be recorded in the Public Records of Volusia County, Florida, at the expense of the purchaser.

If the Association shall fail to provide a purchaser upon the demand of the unit owner in the manner provided, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval, the proposed transaction as contained in the unit owner's original notice of intent to sell shall be deemed to have been approved and the Association shall furnish a certificate of approval as elsewhere provided. The certificate shall be recorded in the Public Records of Volusia County, Florida, at the expense of the purchaser.

B. Lease. If the proposed transaction is a lease, the unit owner shall be advised in writing of the disapproval and the lease shall not be made.

C. Gifts and other transfers. If the notice is of a proposed gift, the unit owner shall be advised in writing of the disapproval and the gift shall not be made. Any attempted gift to a party who is not approved by the Association shall be void. If the unit owner giving notice has acquired his title by gift, or in any other manner, then within thirty (30) days after receipt from the unit owner of the notice and information required to be furnished, the Association shall deliver or mail by certified mail to the unit owner an agreement signed by a purchaser approved by the Association and obligating the purchaser to buy the unit upon the terms hereafter stated. The unit owner shall be obligated to sell the unit to the purchaser upon the following terms:

The sale price shall be the fair market value determined by agreement

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between the unit owner and purchaser within thirty (30) days of the delivery or mailing of the agreement. In the absence of agreement as to price, the price shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the unit. A judgment of specific performance of the sale upon the decision rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

The purchase price shall be paid in cash or upon terms approved by the unit owner.

The sale shall be closed within ten (10) days following the determination of the sale price.

A certificate of the Association executed by its president and secretary and approving the purchaser shall be recorded in the Public Records of Volusia County, Florida, at the expense of the purchaser.

If the Association shall fail to provide a purchaser in the manner provided, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval the ownership shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided. The certificate shall be recorded in the Public Records of Volusia County, Florida, at the expense of the unit owner.

11.4 Exceptions. The foregoing provisions of the section entitled "Maintenance of community interests" shall not apply to:

A transfer to or purchase by an institutional lender or its designee that acquires its title as the result of owning a mortgage upon the unit concerned, whether the title is acquired by deed from the mortgagor, his successor or assigns, or through foreclosure proceedings;

A transfer, sale or lease by an institutional lender that so acquires its title;

A transfer to a purchaser who acquires the title to a unit at a duly advertised public sale with open bidding that is provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale or tax sale;

A mortgage or transfer to or a purchase or other acquisition by Developer, or a lease, mortgage, sale or transfer by Developer;

A gift by a unit owner to a member of his immediate family (viz. spouse, children or parents); or

Title acquired by devise or inheritance.

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11.5 Unauthorized transactions. Any sale, lease for a term in excess of one (1) year or assignment of lease for a term in excess of one (1) year that is not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

12 Compliance and default. Each unit owner and the Association shall be governed by and shall comply with the terms of the Declaration of Condominium, Articles of Incorporation of the Association and the Bylaws and Regulations adopted pursuant to those documents, and all of those documents and regulations as they may be amended from time to time. The Board of Directors of the Association is hereby granted the authority to appoint a committee or committees of unit owners for the purpose of implementing and enforcing the terms of these documents and regulations under the rules of procedure contained in the Bylaws. The Association and unit owners shall be entitled to the following relief in addition to the remedies provided by The Condominium Act:

12.1 Negligence. A unit owner shall be liable for the expense of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees, but only to the extent that that expense is not met by the proceeds of insurance carried by the Association.

12.2 Costs and attorneys' fees. In any proceeding arising because of an alleged failure of a unit owner or the Association to comply with the requirements of The Condominium Act, this Declaration, the Bylaws, or the Regulations, and those items as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorneys' fees.

12.3 No waiver of rights. The failure of the Association or any unit owner to enforce any covenant, restriction or other provision of The Condominium Act, this Declaration, the Bylaws or the Regulations shall not constitute a waiver of the right to do so thereafter.

13 Amendments. Except as elsewhere provided, this Declaration of Condominium may be amended in the following manner:

13.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

13.2 Adoption. A resolution for the adoption of a proposed amendment may be at any regular or special meeting of the Association called in accordance with the Bylaws at which a quorum is present. Such amendments may be proposed by either the Board of Directors of the Association or by the members at a meeting of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing signed by the individual designated to cast the vote for the unit as provided in Section 7.2 of this Declaration, providing that approval is delivered to the secretary at or prior to the meeting.

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Except as elsewhere provided, the approvals must be either by:

Not less than a majority of the entire membership of the Board of Directors and by not less than a majority of the total number of votes to which the unit owners present and voting shall be entitled; or

Not less than 75% of the votes of the entire membership of the Association; or

Not less than 50% of the entire membership of the Board of Directors in the case of amendments that are only for one or more of the following purposes:

To correct misstatements of fact, typographical or clerical errors in the Declaration and its exhibits.

To change the boundaries between units in the manner elsewhere stated provided the amendment is signed and acknowledged by the owners, lienors and mortgagees of condominium property.

Until such time as the unit owners other than the Developer are entitled to elect a majority of the directors, Developer reserves the right, with the consent of the record owner of all institutional mortgages, to amend, modify, alter or annul any of the covenants, restrictions or conditions of this Declaration.

13.3 Proviso. Provided, however, that no amendment shall discriminate against any unit owner nor against any unit or class or group of units, unless the unit owners so affected shall consent, and no amendment shall change the configuration or size of any condominium unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the owner of the unit shares the common expenses and owns the common surplus unless the record owner of the unit and the record owners of all mortgages on the unit join in the execution of the amendment and unless the record owners of two-thirds of all of the other units approve the amendment. Neither shall an amendment make any change in Sections 8, 9, 11 and 13 entitled "Insurance", "Reconstruction and repair after casualty", "Maintenance of community interests" and "Amendments" unless the record owners of all mortgages upon the condominium shall join in the execution of the amendment.

13.4 Execution and recording. An amendment adopted in any manner shall be evidenced by attaching a copy of the amendment to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the officers of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Volusia County, Florida.

14 Termination. The condominium may be terminated in the following ways in addition to the manner provided by The Condominium Act:

14.1 Destruction. If it is determined in the manner elsewhere provided

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that the apartment building shall not be reconstructed because of major damage, the condominium plan of ownership thereby will be terminated without agreement.

14.2 Agreement. The condominium may be terminated by approval in writing of all record owners of units and all record owners of mortgages on units.

14.3 Certificate. The termination of the condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its president and secretary certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the Public Records of Volusia County, Florida.

14.4 Shares of owners after termination. After termination of the condominium, unit owners shall own the condominium property and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees and lienor shall have mortgages and liens upon the respective undivided shares of the unit owners. The undivided shares of the unit owners shall be the same as the undivided shares of the common elements appurtenant to the owners' units prior to the termination.

14.5 Amendment. This section concerning termination cannot be amended without consent of all unit owners and of all record owners of mortgages upon the units.

15 Turnover of Association control to unit owners other than Developer. At such time as the unit owners other than Developer elect a majority of the Directors of the Association as provided in the Bylaws of the Association, the Developer shall be responsible to deliver to the Association all contributions to the condominium Association's working capital as provided in the Purchase Agreement and paid to the Association under the control of the Developer at the time of closing less prepaid items which shall be pro-rated as of the date of turnover. It shall be the responsibility of the Developer to see that the contribution to working capital paid by each unit owner at the closing of the sale by Developer is paid over to the Association.

16 Cable television. The Developer during construction or after completion, as evidenced by issuance of a certificate of occupancy by the appropriate authority, or the Association, by action of its Board of Directors, is authorized to enter into agreements to provide cable television service, to be given to the owners or occupants of units of the condominium, upon such terms and conditions as the Developer or the Board of Directors shall approve, including but not limited to the authority of the Association to enter into a service contract for such service to all units of the condominium in which case the cost shall be treated as a common expense. This authority shall be liberally construed to allow the placement of cables, equipment and all necessary adjunctive mechanical, electro-mechanical, electrical and/or electronic devices upon the condominium property as the Developer or Board of Directors shall approve to effectuate the intentions of this paragraph. In the event service to all units is not provided, unit owners shall have the right to have cable television service extended and

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provided within their units without action of the Board of Directors and such services may be brought to the unit owners requiring or desiring such service over the common elements of the condominium and as other utility services may be extended to the condominium units, providing that such installation shall not be unsightly and that such installation shall not interfere with the reasonable, lawful and peaceful use of the common elements and the limited common elements by the persons entitled to use them. Nothing in this paragraph shall be construed to impose upon the Developer or any other person, either real or corporate, the obligation to provide or install cable television facilities in this condominium, nor to prohibit such installation. Unit owners are prohibited from installing any type of antenna on the roof or on any part of the exterior of the condominium.

17 Pets - Limitation or prohibition. The condominium Association, acting through its Board of Directors, may impose regulations, restrictions or limitations upon the keeping of pets and may appoint a committee for the purpose of enforcing such regulations in accordance with rules of procedure as contained in the Bylaws. Such regulations, restrictions or limitations may not prohibit a unit to keep up to two (2) domestic pets such as dogs or cats which normally require access to the outside provided the total weight of such pets does not exceed twenty (20) pounds at maturity. This provision may not be amended except on the affirmative vote of seventy-five percent (75%) of the unit owners in the manner for amendments as elsewhere provided in this instrument.

18 Severability. The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration of Condominium, the Articles of Incorporation of the Association, the Bylaws and Regulations of the Association, shall not affect the validity of the remaining portions.

IN WITNESS WHEREOF, the Developer has executed this Declaration the day and year first above written.

Signed, sealed and delivered  
in the presence of:

BELLEMEAD DEVELOPMENT CORPORATION

L. E. Lane  
Barbara Pimlott

By: J. Lane  
Senior Vice President

Attest: Edward N. Chad  
Assistant Secretary

STATE OF FLORIDA  
COUNTY OF VOLUSIA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally

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appeared John COLLINS and EDWARD C. CLARK, well known to me to be the Senior Vice President and Assistant Secretary, respectively, of the corporation named as Bellemead Development Corporation in the foregoing Declaration of Condominium, and that they acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation and that the seal affixed thereto is the true and corporate seal of said corporation.

WITNESS my hand and official seal in the State and County last aforesaid this 8<sup>th</sup> day of December, 1987.

Gloria J. D'Amico  
Notary Public, State of Florida at Large.  
My commission expires:

Notary Seal

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OCEANS ATRIUM, A CONDOMINIUM

Legal Description of Land

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Lot 9, except the northerly 4.0 feet and all of Lots 10 and 11 and the northerly 8.0 feet of Lot 12 and their easterly projection to the existing bulkhead line, Block B, McElroy's Belleview, as recorded in Map Book 11, Page 98, Public Records of Volusia County, Florida.

EXHIBIT A  
to  
Declaration of Condominium  
Oceans Atrium, A Condominium



SURVEY, PLOT PLAN  
AND FLOOR PLANS

OCEANS ATRIUM, A CONDOMINIUM

EXHIBIT 2

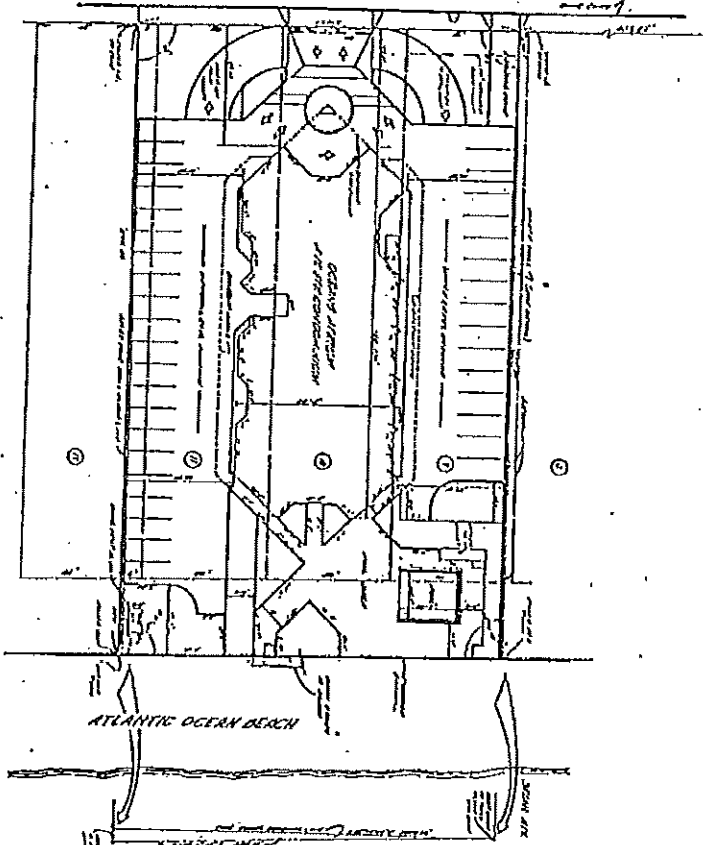
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SOUTH ATLANTIC AVENUE (S.R. 11A) 60'x11'

CANTONMENT STREET 30'x11' (REAR)



# OCEANS ATRIUM A CONDOMINIUM

**ELEVATION REGULATIONS**  
ALL ELEVATIONS TO BE IN ACCORDANCE WITH THE LATEST EDITION OF THE FLORIDA BUILDING CODE.

APPROX. AREA	CONCRETE	BRICK	GLASS	WOOD	OTHER
1	100	100	100	100	100
2	100	100	100	100	100
3	100	100	100	100	100
4	100	100	100	100	100
5	100	100	100	100	100
6	100	100	100	100	100
7	100	100	100	100	100
8	100	100	100	100	100
9	100	100	100	100	100
10	100	100	100	100	100
11	100	100	100	100	100
12	100	100	100	100	100
13	100	100	100	100	100
14	100	100	100	100	100
15	100	100	100	100	100
16	100	100	100	100	100
17	100	100	100	100	100
18	100	100	100	100	100
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22	100	100	100	100	100
23	100	100	100	100	100
24	100	100	100	100	100
25	100	100	100	100	100
26	100	100	100	100	100
27	100	100	100	100	100
28	100	100	100	100	100
29	100	100	100	100	100
30	100	100	100	100	100
31	100	100	100	100	100
32	100	100	100	100	100
33	100	100	100	100	100
34	100	100	100	100	100
35	100	100	100	100	100
36	100	100	100	100	100
37	100	100	100	100	100
38	100	100	100	100	100
39	100	100	100	100	100
40	100	100	100	100	100
41	100	100	100	100	100
42	100	100	100	100	100
43	100	100	100	100	100
44	100	100	100	100	100
45	100	100	100	100	100
46	100	100	100	100	100
47	100	100	100	100	100
48	100	100	100	100	100
49	100	100	100	100	100
50	100	100	100	100	100

- 1. ALL UNIT AND COMMON AREA ELEVATIONS SHALL BE IN ACCORDANCE WITH THE LATEST EDITION OF THE FLORIDA BUILDING CODE.
- 2. ALL UNITS SHALL BE FINISHED WITH CERAMIC TILE FLOORS.
- 3. ALL UNITS SHALL BE FINISHED WITH WHITE ACETONE CLEANING WALLS.
- 4. ALL UNITS SHALL BE FINISHED WITH WHITE ACETONE CLEANING CEILING.

**LEGAL DESCRIPTION**  
LOT 8 EXCEPT THE NORTHWEST 1/4 AND ALL OF LOTS 9, 10 AND 11 AND THE NORTHWEST 1/4 OF LOT 12 AND PART OF LOT 13 AND 14 BEING MORE OR LESS THE SAME AS SHOWN ON THE PLAT OF THE OCEANS ATRIUM CONDOMINIUM SUBDIVISION AS RECORDED IN PUBLIC RECORDS IN VOLUSIA COUNTY, FLORIDA.

**CERTIFICATE OF SURVEY**  
THE ABOVE DESCRIBED LOT 8 EXCEPT THE NORTHWEST 1/4 AND ALL OF LOTS 9, 10 AND 11 AND THE NORTHWEST 1/4 OF LOT 12 AND PART OF LOT 13 AND 14 BEING MORE OR LESS THE SAME AS SHOWN ON THE PLAT OF THE OCEANS ATRIUM CONDOMINIUM SUBDIVISION AS RECORDED IN PUBLIC RECORDS IN VOLUSIA COUNTY, FLORIDA.

**AS SEEN**  
A. E. FINE  
REGISTERED PROFESSIONAL SURVEYOR  
NO. 12345  
STATE OF FLORIDA

BETTY WALKER (REGISTERED)

## EXHIBIT "B" to Declaration of Condominium

EXHIBIT "B"  
DECLARATION OF CONDOMINIUM  
OCEANS ATRIUM  
VOLUSIA COUNTY, FLORIDA

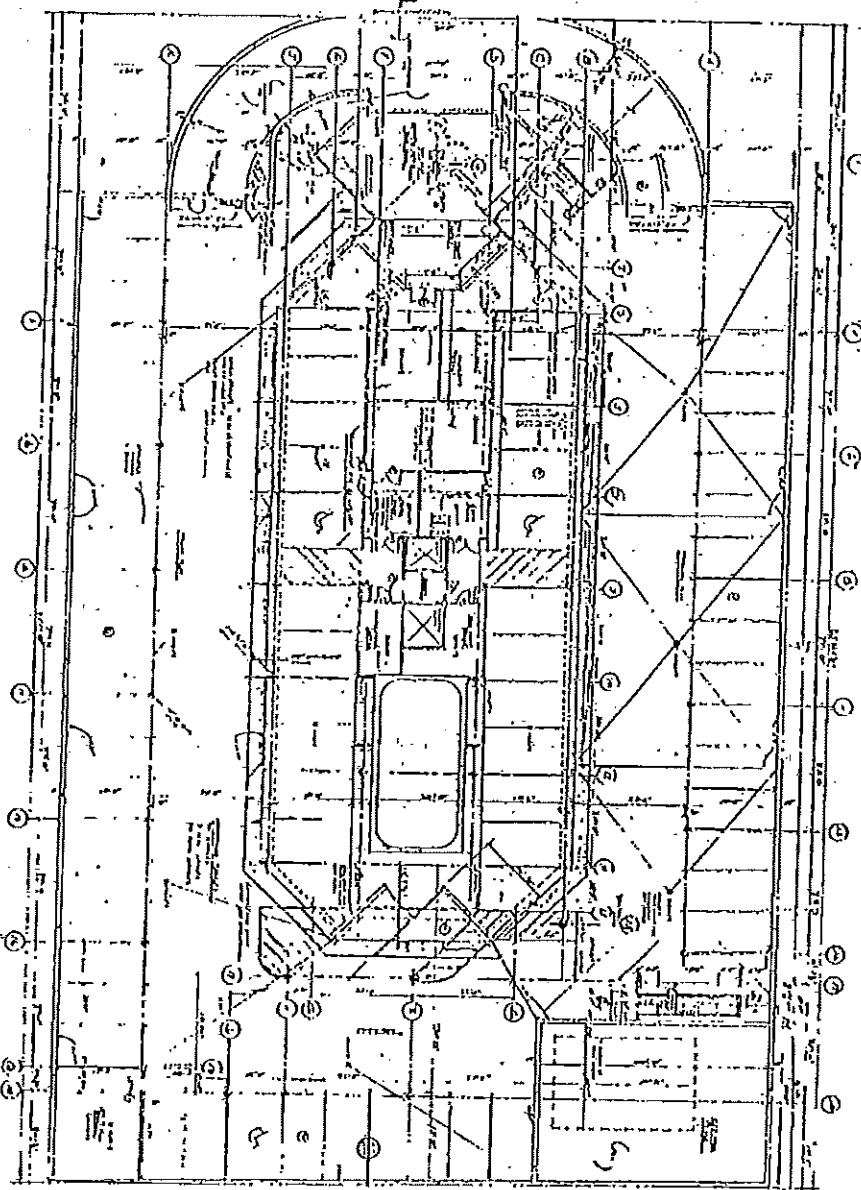
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# OCEANS ATRIUM A CONDOMINIUM

Map Book Page



BASMENT PLAN

NOTES:

1. ALL BUILDING DIMENSIONS SHOWN ON THIS PLAN CORRESPONDING TO THE PLANS, SPECIFICATIONS, AND CONTRACT DOCUMENTS. ALL DIMENSIONS SHALL BE MEASURED FROM THE EXTERIOR FACE OF WALLS, UNLESS OTHERWISE SPECIFIED. ALL DIMENSIONS SHALL BE MEASURED FROM THE EXTERIOR FACE OF WALLS, UNLESS OTHERWISE SPECIFIED.

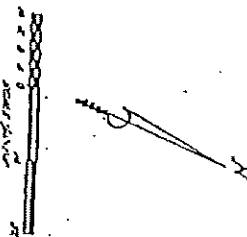


EXHIBIT "B"

AS SHOWN IN THE RECORD DRAWINGS OF THE PROJECT, THE CONDOMINIUM UNIT IS LOCATED IN THE SOUTH EAST CORNER OF THE PROJECT. THE CONDOMINIUM UNIT IS LOCATED IN THE SOUTH EAST CORNER OF THE PROJECT. THE CONDOMINIUM UNIT IS LOCATED IN THE SOUTH EAST CORNER OF THE PROJECT.

EXHIBIT "B"  
to  
Declaration of Condominium

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AS BUILT ARCHITECTURAL DRAWING BY  
GARDNER & CO.  
REGISTERED ARCHITECTS  
CORPORATION  
CORPORATE OFFICE: 1000  
N. W. 10TH AVENUE, SUITE 100  
MIAMI, FLORIDA 33136  
LARRY W. GARDNER, ARCHITECT

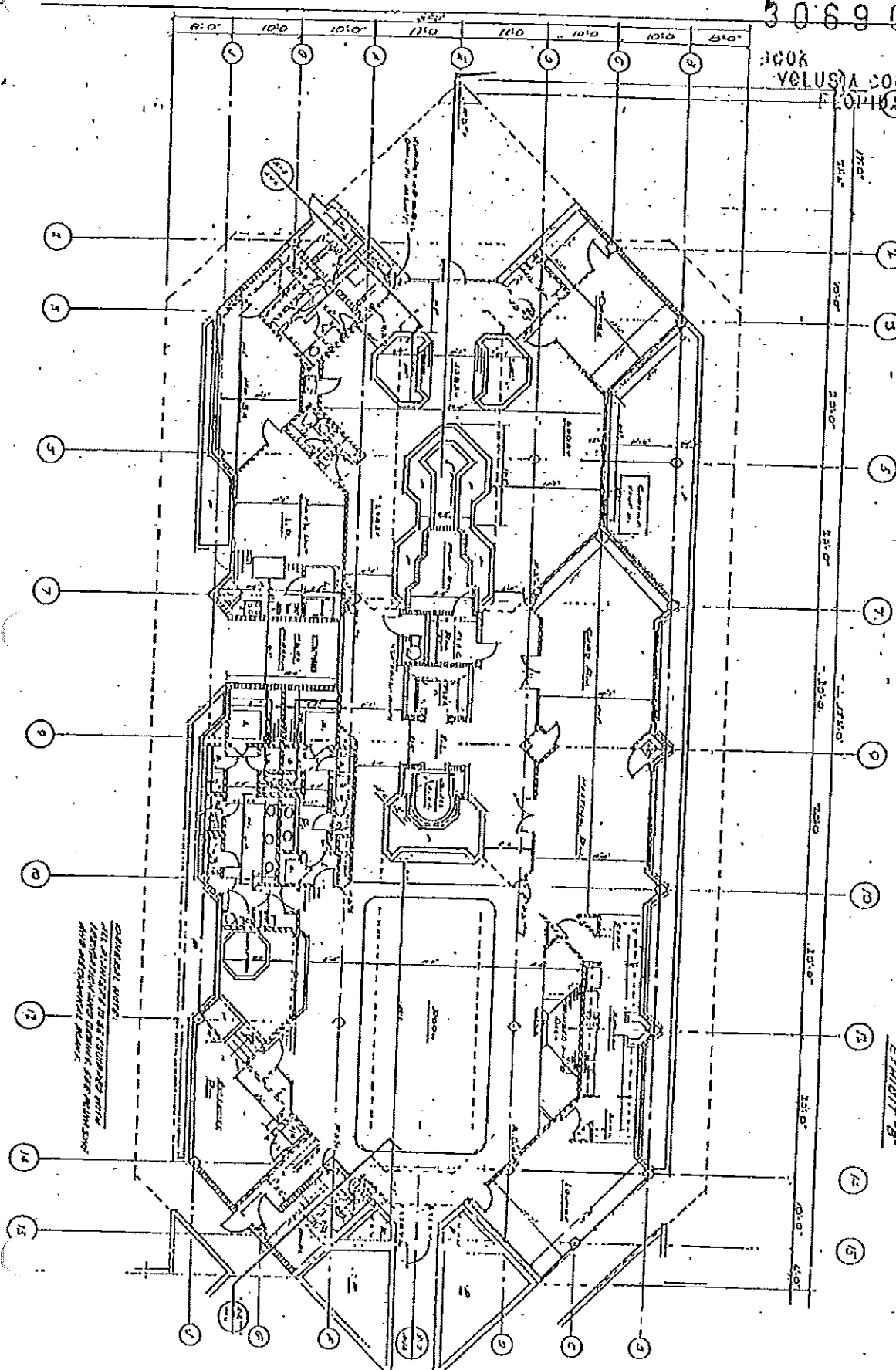
# OCEANS ATRIUM A CONDOMINIUM

NOTED:  
THIS SET OF ARCHITECTURAL DRAWINGS IS A COPY OF THE ORIGINAL  
DRAWINGS AND NOT A REPRODUCTION. THE ORIGINAL DRAWINGS  
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AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF  
GARDNER & CO. ARCHITECTS CORPORATION.

EXHIBIT "B"

Map Book

Page  
X



GENERAL NOTE:  
ALL DIMENSIONS ARE TO FACE UNLESS  
SPECIFICALLY NOTED OTHERWISE.  
CONSTRUCTION SHALL BE IN ACCORDANCE  
WITH ALL APPLICABLE CODES AND REGULATIONS.

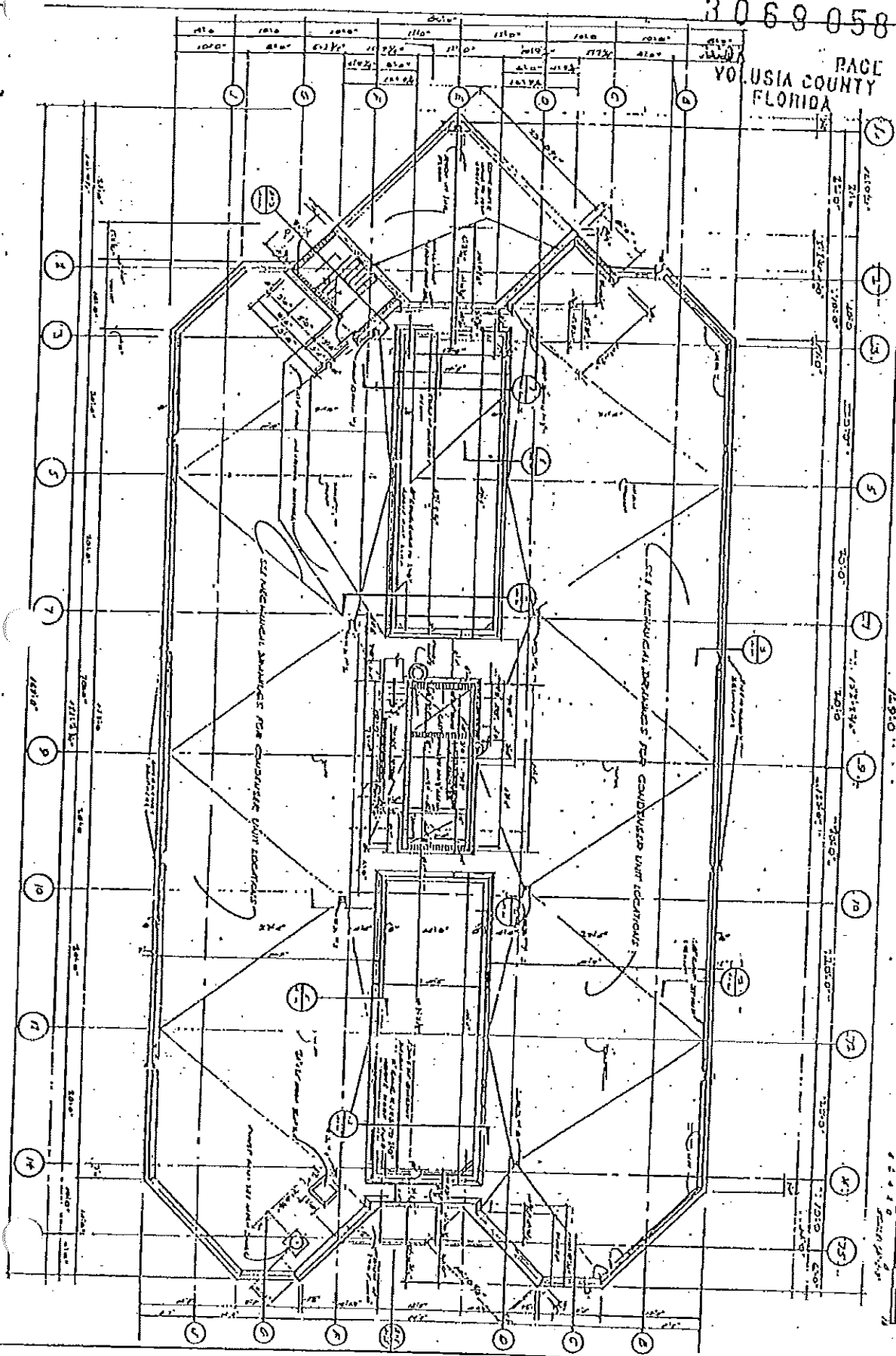
EXHIBIT "B"  
to



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VOLUSIA COUNTY  
FLORIDA



OCEANS ATRIUM  
A. CONDOMINIUM

EXHIBIT "B"

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EXHIBIT "B"  
to

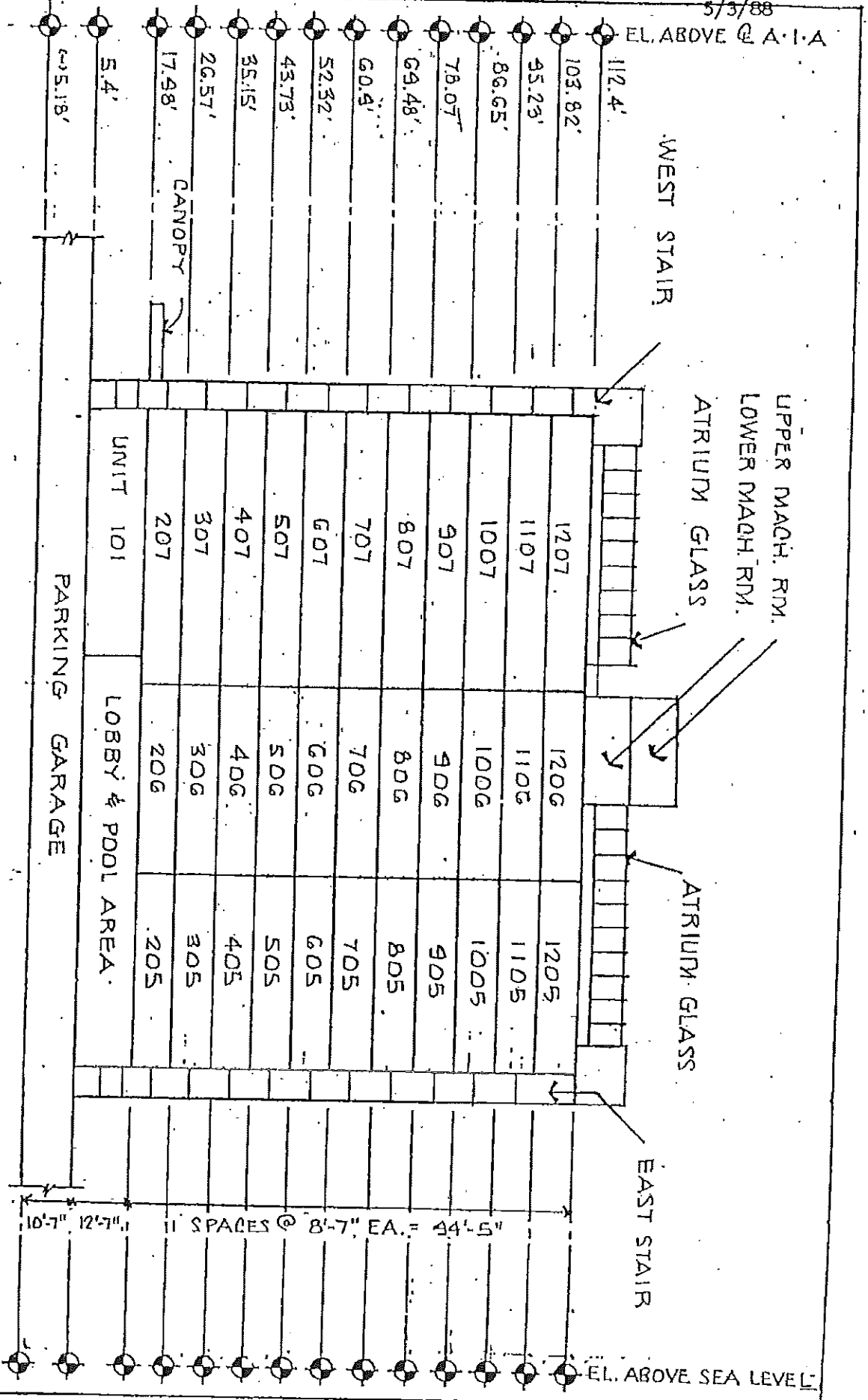


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EL. ABOVE @ A-1-A

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SOUTH SCHEMATIC ELEVATION

OCEANS ATRIUM

LARRY W. ROBINSON - ARCH. EQT.

EVU0101000

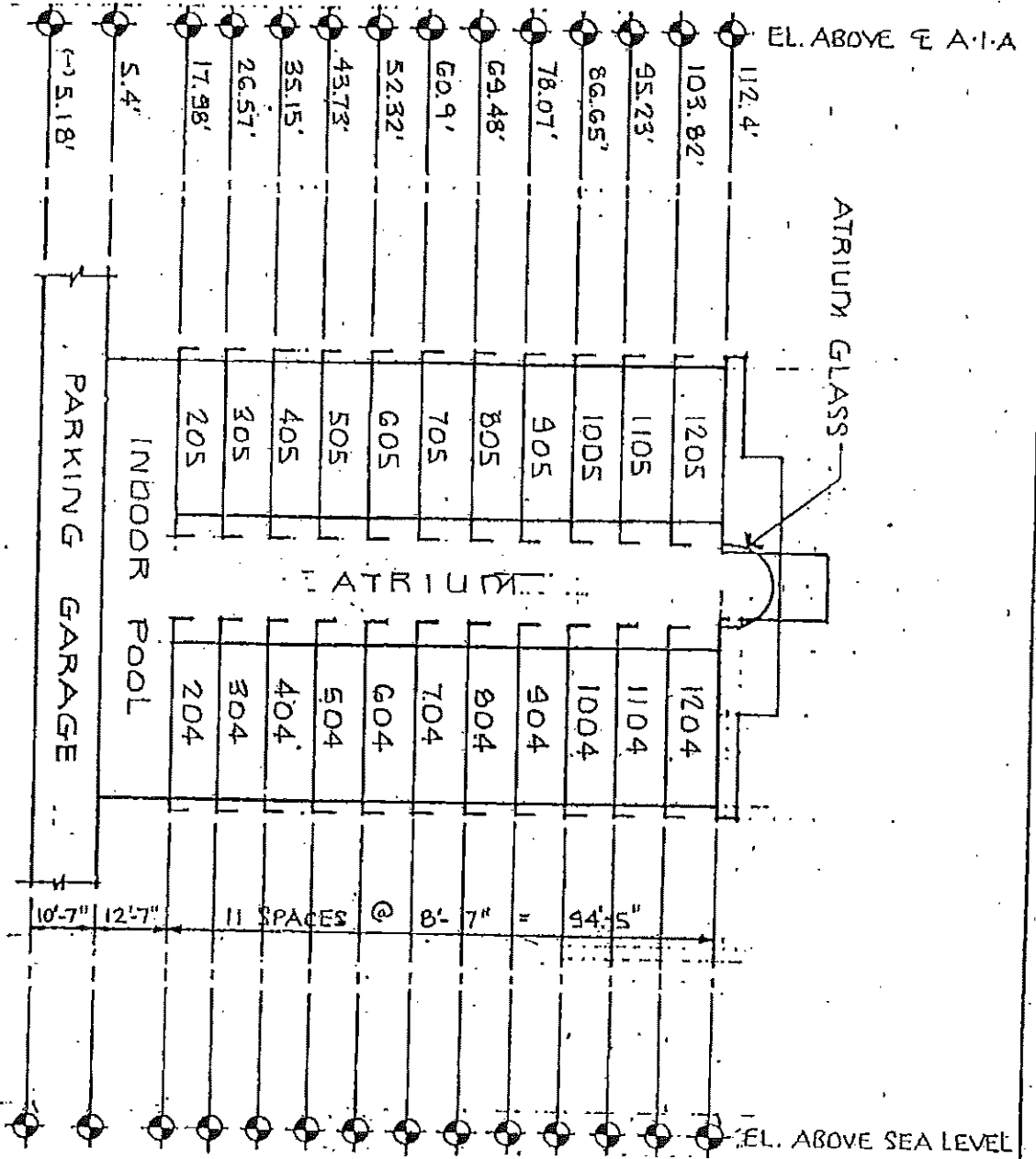
EL. ABOVE SEA LEVEL



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PAGE VOLusia COUNTY FLORIDA



EAST SCHEMATIC ELEVATION

# OCEANS ATRIUM

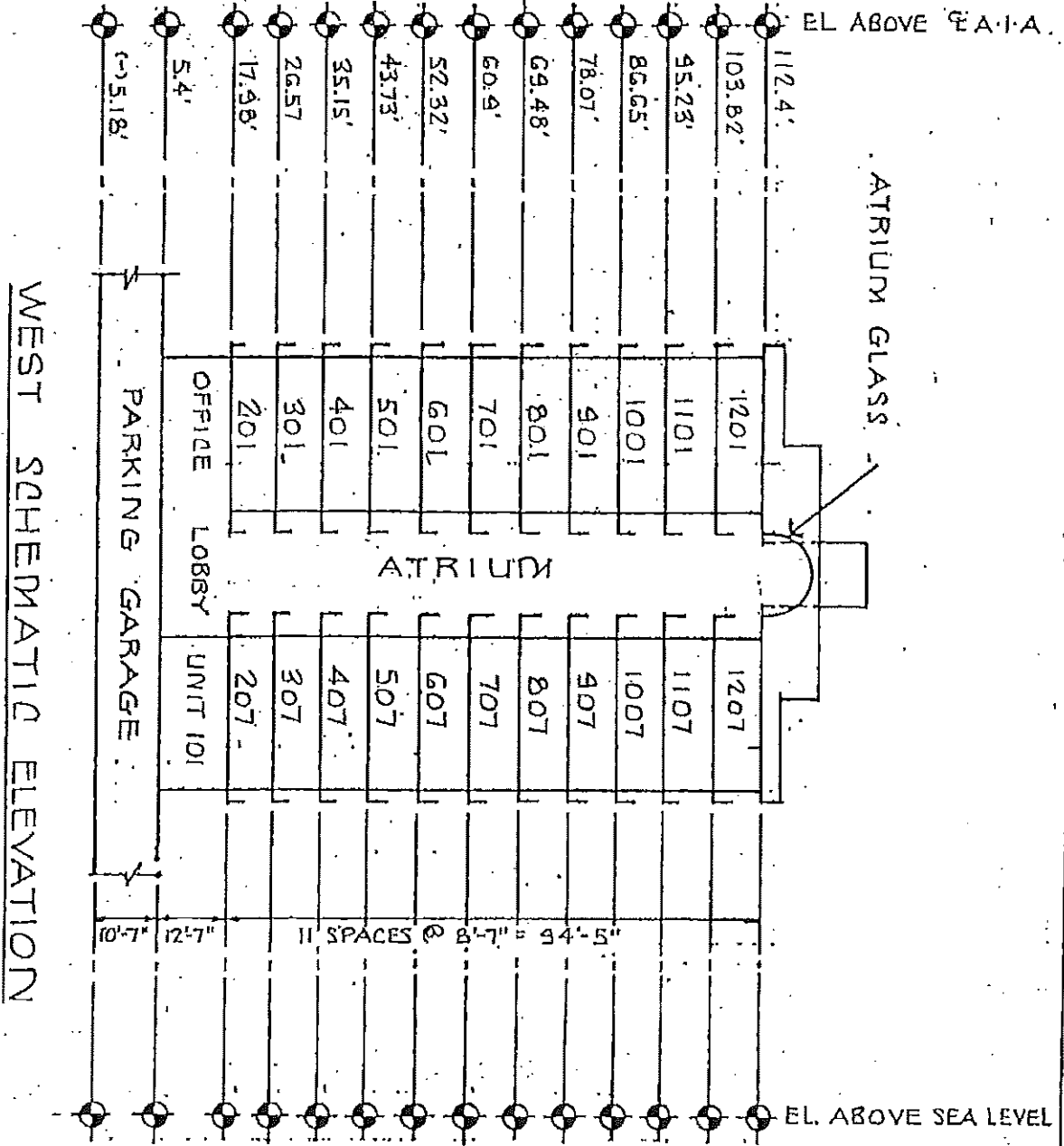
LARRY W. ROBINSON - ARCHITECT

EXHIBIT "B" SHEET 8 OF SHEETS

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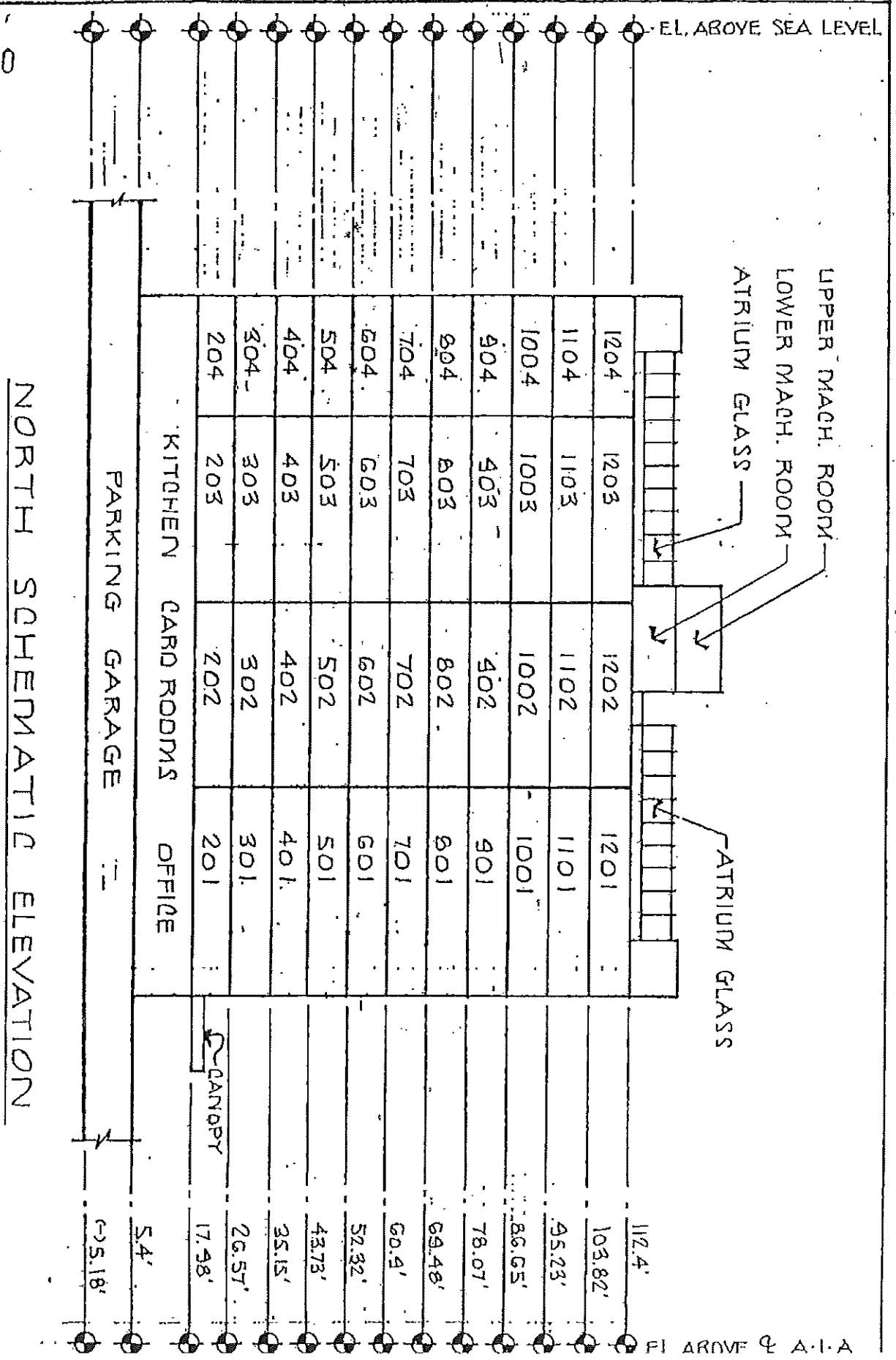
OCEANS ATRIVM

LARRY W. ROBINSON ARCHITECT

EXHIBIT "B" SHEET 9 OF SHEETS

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