

18/020

OFF REC. 1580<sup>7</sup> 83

DECLARATION OF CONDOMINIUM

OF

DAVIS WOODS

1516638

A Condominium

Made this 5 day of February, A.D., 1982,  
by Outer Island Development of Florida, Inc., a Florida  
Corporation, herein called Developers, for itself, its grantees  
and assigns therefore

KNOW ALL MEN BY THESE PRESENTS, that the Developer makes  
the following declarations:

FIRST - PURPOSE. The purpose of this Declaration is to submit  
the lands herein described and the improvements now or here-  
after constructed thereon to the condominium form of ownership  
and use in the manner provided by Chapter 718, Florida Statutes,  
herein called the Condominium Act.

A. Name. The name by which this Condominium is to be  
identified is Davis Woods Condominium. The name of the  
Condominium Association shall be DAVIS WOODS CONDOMINIUM  
ASSOCIATION, INC. The address of the Association is Rt. 19 Box 73  
Davis Rd., Fort Myers, Florida 33908

B. The Land. The lands owned by the Developer which are  
hereby submitted to the condominium form of ownership are the  
following described lands lying in Lee County, Florida.

A tract or parcel of land situated in the State  
of Florida, County of Lee, lying in Section 2,  
Township 46 South, Range 23 East and further  
bounded and described as follows:

Starting at the Northeast corner of the Southeast  
one quarter (SE  $\frac{1}{4}$ ) of the Southwest one quarter  
(SW  $\frac{1}{4}$ ) of said Section 2; thence S 00° 51' 12" E  
along the East line of said fraction 210.00 feet to  
the principal place of beginning; thence continuing  
S 00° 51' 12" E along said East line for 452.20 feet;  
thence S 89° 08' 48" W for 395.03 feet to a point  
on a curve concave to the West having a radius of  
100.00 feet and to which point a radial line bears  
N 89° 00' 44" E; thence Southerly along said  
curve through a central angle of 27° 08' 44" for  
47.38 feet to a point of reverse curve concave  
to the East having a radius of 100.00 feet; thence  
Southerly along said curve through a central angle  
of 27° 08' 44" for 47.38 feet; thence S 00° 59' 16" E  
for 49.62 feet; thence S 89° 00' 44" W for 210.00  
feet; thence N 00° 59' 16" W along the Easterly  
right-of-way line of Davis Road (66.00 feet wide)  
for 592.85 feet; thence n 89° 04' 33" E for 628.12  
feet to the principal place of beginning.

Said parcel subject to all right-of-ways, easements  
and restrictions of record.

Prepared By: ✓  
D.G. Thompson  
RT 24 Box 101A  
Ft. Myers FLA  
33908

RECORD VERIFIED - SAI GRAY CLEK  
BY G. WOKINGER D.C.

SECOND - DEFINITIONS. The terms used herein and in the By-Laws shall have the meanings stated in the Condominium Act and as follows unless the context otherwise requires:

A. Apartment means a part of the condominium property which is subject to private ownership and is synonymous with "unit".

B. Apartment Buildings means a separate building containing units or apartments.

C. Apartment Owner means the fee simple owner of a condominium parcel or the owner of any lesser estate excluding, however, a tenant or lessee, and also excluding the Association if it acquires title to one or more apartments.

D. Assessment means a share of the funds required for the payment of common expenses, which from time to time is assessed against the apartment owner.

E. Association means the entity responsible for the operation of the condominium, to wit: DAVIS WOODS CONDOMINIUM ASSOCIATION, INC., and its successors.

F. By-Laws means the Association By-Laws for the government of the condominium as they exist from time to time.

G. Common elements means the portions of the condominium property not included in the unit or apartment and shall include:

1. The tangible personal property required for the maintenance and operation of the condominium, even though owned by the Association.

2. The personal property and installation required for furnishing utility and other services to more than one apartment or to an apartment other than the apartment containing the installation concerned, such as electric power, hot and cold water, heating, refrigeration, air conditioning, garbage and sewer disposal and telephone and which installations shall include tanks, motors, pumps, fans, compressors, antennas, ducts, conduits, plumbing, wiring and other facilities.

3. Easements, including but not limited to easements for support and access.

4. The land and the parts of the apartment buildings not included in the several apartments.

5. All other portions or elements of the condominium property which are rationally of common use or necessity to the existence, upkeep and safety of the condominium.

H. Common expenses means the expenses for which the several apartment owners are liable to the Association and include:

1. Expenses of administration; expenses of maintenance, operation, repair or replacement of the common elements; and of the portion of apartments to be maintained by the Association.

2. Expenses declared common expenses by provisions of this Declaration, the By-Laws or by proper resolution of the Association.

3. Any valid charge against the condominium as a whole.

I. Common surplus means the excess of all receipts of the Association, including but not limited to assessments, rents, profits and revenues on account of the common elements, over the amount of common expenses.

J. Condominium means that form of ownership of condominium property under which units of improvements are subject to ownership by one or more owners, and there is appurtenant to each unit as part thereof an undivided share in the common elements.

K. Condominium parcel means a unit together with undivided share in the common elements which is appurtenant to the unit.

L. Condominium property means and includes the land in a condominium, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.

M. The Condominium Documents shall be this Declaration together with the following exhibits which are made a part hereof:

Exhibit "A" - Survey and plot plan of the land and buildings.

Exhibit "B" - Plan of apartments in the buildings.

Exhibit "C" - Plan showing elevations.

Exhibit "D" - Certificate of the surveyor.

Exhibit "E" - Articles of Incorporation.

Exhibit "F" - By-Laws.

N. Limited common elements means and includes those common elements which are reserved for the use of a particular unit or units to the exclusion of other units.

O. Record Owner Fee simple owner as reflected by the Lee County, Florida, Public Records, or Records of the Association.

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

Q. Unit - Synonymous with "apartment".

R. Utility services as used in the Condominium Act and construed with reference to this condominium, and as used in this Declaration and By-Laws, shall include but not be limited to electric power, telephone, hot and cold water, heating, refrigeration, air conditioning, garbage, trash and sewage disposal.

S. Institutional Mortgagee is the owner and holder of a mortgage encumbering a condominium parcel, which owner and holder of said Mortgage is either a bank, life insurance company, Federal or State Savings and Loan, Mortgage or Real Estate Investors Trust, mortgage banker, union pension fund, institutional mortgage broker, Federal or State governmental agency or authority, or a lender generally recognized as an institutional type lender.

THIRD - DEVELOPMENT PLAN. The condominium is described and established as follows:

A. Survey and plot plan. A survey and plot plan of the land showing the apartment buildings and improvements being submitted to condominium by this Declaration, is attached as Exhibit "A".

B. Easements. Easements are reserved through the condominium property as may be required for utility services in order to adequately serve the condominium; provided, however, such easements through an apartment shall be only according

to the plans and specifications for the building containing the apartment, or as the building is constructed, unless approved in writing by the apartment owner. Non-exclusive easements, for the uses and benefits of occupants, are hereby granted for ingress and egress to the public way or road known as Davis Road over the walks and parking areas serving the units of the Condominium as part of the common elements.

C. Improvements. The improvements upon the land include the following:

1. Apartment building. The condominium includes eight buildings having six apartments on each of two apartment levels, or floors, and one building having five apartments on one apartment level, as shown on Exhibit "B".

2. Other Improvements. The condominium includes a swimming pool, tennis court and automobile parking area, as shown on Exhibit "A" and which are part of the common elements.

D. Apartments. General Provisions. The following provisions shall apply to each apartment or unit:

1. Boundaries. Each apartment shall include that part of the building containing the apartment which lies within the boundaries of the apartment, which boundaries are as follows:

(a) Upper and Lower boundaries. The upper and lower boundaries of each apartment shall be the following boundaries:

(1) Upper boundary - the horizontal plane of the lower surfaces of the ceiling slab;

(2) Lower boundary - the horizontal plane of the lower surfaces of the floor slab.

(b) Perimetrical boundaries. The perimetrical boundaries of the apartment shall be the following boundaries extended to an intersection with the upper and lower boundaries:

(1) Exterior building walls - the intersecting vertical plane adjacent to and which includes the exterior of the outside masonry walls of the apartment building bounding an apartment and, where the outside is a door, a part thereof, a balcony, porch, or terrace, the perimetrical boundaries shall be the intersecting vertical planes adjacent to, and which include, all such structures. (Note: Exterior plaster or stucco and exterior paint are part of the common elements.)

(2) Interior building walls - the vertical planes of the centerlines of walls bounding an apartment extended to intersections with other perimetrical boundaries.

E. Common Elements. The common elements shall include the land and all other parts of the condominium not within the apartments.

F. Shared Use of Common Elements. Condominium unit owners shall have usage of the common elements described in the Declaration.

G. Amendment of plans and completion or addition of improvements.

1. Alteration of apartment plans. Developer reserves the right to change the interior design and arrangement of all units, and to alter the boundaries between units, so long as Developer owns the units altered. No such change shall increase the number of apartments beyond a total of 101, not alter the boundaries of the common elements without amendment of this Declaration by approval of the Association, apartment owners,

and owners of mortgages in the manner elsewhere provided. If Developer shall make any changes in units so authorized, such changes shall be reflected by an amendment of this Declaration. If more than one unit is concerned, the Developer shall apportion between the units the shares in the common elements which are appurtenant to the units concerned.

2. Amendment of Declaration. An amendment of this Declaration reflecting such alteration of apartment plans by the Developer need be signed and acknowledged only by the Developer and need not be approved by the Association, apartment owners, or lienors or mortgagees of apartments or of the Condominium, whether or not elsewhere required for an amendment.

FOURTH - THE APARTMENTS. The apartments of the Condominium are described more particularly and the entitlements and obligations of the owners established as follows:

A. Apartment plans. Attached is Exhibit "B" delineating typical apartment floor plans.

B. Apartment numbers. Each apartment is identified by a three digit number. The first digit identifies the building number. Building one is located adjacent to Davis Road at the entry drive. Buildings two through eight continue in a consecutive and clockwise manner. Building nine is located on the right of the entry as seen from Davis Road and is adjacent to building one. The center digit identifies the floor level and continuing through two on the second apartment level in each building. The third digit identifies the apartment number in each building beginning at 1 and continuing through 6 on each level in buildings 1 through 8 and at 1 continuing through 5 in building 9 as shown in Exhibit "B".

C. Appurtenances to apartments. The owner of each apartment shall own a share and certain interest in the condominium property which are appurtenant to his apartment, including but not limited to the following items which are appurtenant to the several apartments as indicated:

1. Common elements and common surplus. The undivided share in the land, swimming pool and other common elements and in the common surplus which is appurtenant to each apartment is as follows:

An undivided 2/168 share to each owner of a two bedroom unit.

An undivided 1/168 share to each owner of a one bedroom unit.

2. Automobile parking space. The common elements include parking areas for automobiles for apartment owners and their guests. The automobile parking space for each apartment may be designated as to the appropriate apartment by the Condominium Association.

3. Association Membership. The membership of each apartment owner in the Association and the interest of each apartment owner in the funds and assets held by the Association.

4. Each apartment owner shall be liable for a proportionate share of the common expenses, to wit:

2/168 for each owner of a two bedroom unit

1/168 for each owner of a one bedroom unit

FIFTH - MAINTENANCE, ALTERATION AND IMPROVEMENTS. Responsibility for the maintenance of the condominium property, and restrictions upon the alteration and improvement therein, shall be as follows:

A. Apartments.

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

(a) All portions of an apartment, except interior surfaces, contributing to the support of the apartment building, which portions shall include but not be limited to the outside walls of the apartment building and all fixtures on the exterior thereof, boundary walls of apartments, floor and ceiling slabs, load-bearing columns and load-bearing walls.

(b) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services which are contained in the portions of an apartment maintained by the Association; and all such facilities contained within an apartment which service part or parts of the condominium other than the apartment within which contained.

(c) All incidental damage caused to an apartment by such work shall promptly be repaired at the expense of the Association.

2. By the apartment owner. The responsibility of the apartment owner shall be as follows:

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

(b) Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the apartment building.

(c) To promptly report to the Association any defect or need for repairs the responsibility for the remedying of which is that of the Association.

3. Alteration and improvements. Except as elsewhere reserved to Developer, neither an apartment owner nor the Association shall make any alterations in the portions of an apartment or apartment building which are to be maintained by the Association, or remove any portion thereof, or make any additions thereto, or do anything which would jeopardize the safety or soundness of the apartment building, or impair any easements, without first obtaining approval in writing of owners of all other apartments in the same building and approval of the Board of Directors of the Association. A copy of plans for all such work prepared by an engineer licensed to practice in this state shall be filed with the Association prior to the start of the work. All apartments are equipped with padded carpeting at the time of sale by the Developer, and continuance in place of padded carpeting is deemed essential to maintaining a quiet atmosphere to contiguous apartments. Therefore, no apartment owner shall be permitted to leave his floors uncarpeted without the express approval of the Board of Directors of the Condominium Association.

#### B. Common Elements.

1. By the Association. The maintenance and operation of the common elements shall be the responsibility and the expense of the Association.

2. Alteration, improvement, and additions. After the completion of the improvements included in the common elements which are contemplated by this Declaration, there shall be no alteration, further improvements, nor additions to the common elements without prior approval in writing by the record owners of all of the apartments; provided, however, that any alteration or improvement of the common elements bearing the approval in writing of the record owners of more than fifty (50%) percent

of the ownership, and which does not interfere with the rights of any owners without their consent, may be done if the owners who do not approve are relieved from the cost thereof. The share of any cost not so assessed shall be assessed to the other apartment owners in the shares which their shares in the common elements bear to each other. There shall be no change in the shares and rights of an apartment owner in the common elements which are altered or further removed, whether or not the apartment owner contributes to the cost thereof. Major additions to the common elements may be acquired only with approval of all record owners of the apartments.

SIXTH - ASSESSMENTS. The making and collection of assessments against apartment owners for common expenses shall be pursuant to the By-Laws and subject to the following provisions:

A. Share of common expense. Each apartment owner shall be liable for proportionate share of the common expenses, and shall share in the common surplus, such shares being the same as the undivided share in the common elements which is appurtenant to the apartment owned by him. Provided, however, that during any period of time in which there is only one or more building being maintained and operated by the Association, such as the maintenance and operation of one building pending reconstruction of the other building after a casualty, the common expenses attributable only to the maintenance and operation of such building shall be assessed only to the owners of apartments in that building and in the proportions which their respective shares in the common elements bear to each other.

B. Interest; application of payments. Assessments and installments thereon paid on or before ten (10) days after the date when due shall not bear interest, but all sums not paid on or before ten (10) days after the date when due shall bear interest at the rate of ten percent per annum from the date when due until paid. All payments upon account shall be first applied to interest and then to the assessment after payment first due.

C. Lien for Assessments. The Association shall have a lien on each condominium parcel for any unpaid assessments, and interest thereon, against the unit owner of such condominium parcel. Said lien shall also secure reasonable attorney's fees incurred by the Association incident to the collections of such assessment or enforcement of such lien. Said lien shall be effective from and after the time of recording in the public records in the county in which the condominium parcel is located of a claim of lien stating the description of the condominium parcel, the name of the record owner, the amount due and date when due, and the lien shall continue in effect until all sums secured by the lien shall have been fully paid. Such claims of liens shall include only assessments which are due and payable when the claim of lien is recorded. Such claims of liens shall be signed and verified by an officer or agent of the Association and shall then be entitled to be recorded. Upon full payment the party making payment shall be entitled to recordable satisfaction of the lien. All such liens shall be subordinate to the lien of a mortgage or other lien recorded prior to the time of recording of the claim of lien.

D. Rental pending foreclosure. In any foreclosure of a lien for assessments the owner of the apartment subject to the lien shall be required to pay a reasonable rental for the apartment, and Association shall be entitled to the appointment of a receiver to collect the same.

E. Assessments pending foreclosure. Where the mortgagee of a first mortgage of record or other purchaser of a condominium unit obtains title to the condominium parcel as a result of foreclosure of the first mortgage, or as a result of deed given in lieu of foreclosure, such acquirer of title, his successors and assigns, shall not be liable for the share of

common expenses or assessments by the Association pertaining to such condominium parcel or chargeable to the former unit owner of such parcel which becomes due prior to acquisition of title as a result of foreclosure, unless such share is secured by a claim of lien for assessments that is recorded prior to the recording of the foreclosed mortgage. Such unpaid share of common expenses, assessments, collectable from all of the unit owners including such acquirer, his successors and assigns. The foregoing provisions may apply to any mortgage of record and shall not be restricted to first mortgages of record. A first mortgagee acquiring title to a condominium parcel as a result of foreclosure or a deed in lieu of foreclosure, may not during the period of its ownership of such parcel, whether or not such parcel is unoccupied, be excused from the payment of some or all of the common expenses coming due during the period of such ownership.

F. The Developer shall be excused from the payment of all assessments for common expense against all units owned by the Developer until December 1983. The Developer hereby guarantees that until December 1983, the assessment for common expenses of the condominium imposed upon the unit owners shall not exceed \$47.75 per month per one bedroom unit and 63.65 per month per two bedroom unit and that any amount of common expense incurred during that period are not produced by the assessments receivable from unit owners at the guaranteed level shall be paid by the Developer.

SEVENTH - ASSOCIATION. The operation of the condominium shall be by a corporation not for profit in accordance with the laws of the State of Florida, and shall fulfill its functions pursuant to the following provisions:

A. Name. The name of the Association is DAVIS WOODS CONDOMINIUM ASSOCIATION, INC.

B. Powers. The Association has all of the powers and duties set forth in the Condominium Act and any granted by statutory or common law, and all of the powers and duties reasonably necessary to operate the condominium as set forth in the Declaration and the said Association's Articles and By-Laws, and as they may be amended from time to time, said Condominium Act shall, in the event of conflict, supercede said Declaration, Articles and By-Laws.

C. Members.

1. Qualification. The members of the Association shall consist of all of the record owners of apartments.

2. Change of membership. After receiving the approval of the Association elsewhere required, change of membership in the Association shall be established by recording in the Public Records of Lee County, Florida, a deed or other instrument establishing a record title to an apartment in the condominium and the delivery to the Association of a certified copy of such instrument, the owner designated by such instrument thereby becoming a member of the Association. The membership of the prior owner shall be thereby terminated.

3. Voting rights. The members of the Association shall be entitled to cast votes for each apartment owned by them, proportionate to such members respective ownerships. The total vote of all owners is one sixty eight (168). Each apartment owner shall be entitled to vote as follows:

2 votes for each two bedroom unit  
1 vote for each one bedroom unit



4. Designation of voting representative. If an apartment is owned by one person his right to vote shall be established by the record title to his apartment. If an apartment is owned by more than one person, or is under lease, the person entitled to cast the vote for the apartment shall be designated by a certificate signed by all of the record owners of the apartment and filed with the Secretary of the Association. If an apartment is owned by a corporation, the person entitled to cast the vote for the apartment shall be designated by a certificate of appointment signed by the President or Vice-President and attested by the Secretary or Assistant Secretary of the Corporation and filed with the Secretary of the Association. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the apartment concerned. A certificate designating the person entitled to cast the vote of an apartment may be revoked by any owner thereof.

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

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

7. Limitation of Liability. The liability of any member is limited to the amounts for which he is assessed for common expenses from time to time in accordance with this Declaration.

D. Board of Directors. The affairs of the Association shall be conducted by a Board of not less than three (3) nor more than five (5) Directors who shall be designated and elected in the manner provided in the By-Laws.

E. Indemnification. Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a director or officer of the Association, or any settlement thereof, whether or not he is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights of which such director or officer may be entitled.

F. 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 for injury or damage, other than the cost of maintenance and repair, caused by a latent condition of the property to be maintained and repaired by the Association, or by the elements or other owners or persons.

G. By-Laws. The By-Laws of the Association shall be in the form attached as Exhibit "F".

H. Agent to receive service of process. The following person who is a resident of the State of Florida, is designated

as agent to receive service of process upon the Association:

Name: DAVID G. THOMPSON

Address: RT. 24 BOX 101-A  
FT. MYERS, FLORIDA 33907

1580- 92  
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I. Transfer of Control. When unit owners other than the Developer own fifteen percent (15%) or more of the units that will be operated ultimately by the Association, the unit owners other than the Developer shall be entitled to elect not less than one-third (1/3) of the members of the board of administration of the Association. Unit owners other than the Developer shall be entitled to elect not less than a majority of the members of the board of administration of an association three (3) years after sales by the Developer have been closed of fifty percent (50%) of the units that will be operated ultimately by the Association, or three (3) months after sales have been closed by the Developer of ninety percent (90%) of the units that will be operated ultimately by the Association, when all of the units that will be operated ultimately by the Association have been completed and some of them have been sold and none of the others are being offered for sale by the Developer in the ordinary course of business, or when some of the units have been sold and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business, whichever shall first occur. The Developer shall be entitled to elect not less than one (1) member of the board of administration of the Association as long as the Developer holds for sale in the ordinary course of business at least five (5%) percent of the units in a condominium or cooperative operated by the Association.

EIGHTH - INSURANCE. The insurance, other than title insurance, which shall be carried upon the condominium property and the property of the apartment owners shall be governed by the following provisions:

A. Authority to purchase. All insurance policies upon the condominium property shall be purchased by the Association for the benefit of the Association, and owners, and their mortgagees, as their interests may appear, and provisions shall be made for the issuance of certificates or such mortgagee endorsements to the mortgagees of apartment owners. Such policies and endorsements thereon shall be deposited with the Insurance Trustee. Apartment owners may obtain insurance coverage at their own expense upon their own personal property and for their personal liability and living expense.

B. Coverage.

1. Casualty. All buildings and improvements upon the land and all personal property included in the common elements shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, as determined annually by the Board of Directors of the Association. Such coverage shall afford protection against:

(a) Loss or damage by fire and other hazards covered by a standard extended coverage endorsements, and

(b) Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land, including, but not limited to vandalism and malicious mischief.

2. Liability. 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 apartment owners as a group to an apartment owner.

3. Workmen's Compensation. Workmen's Compensation policy to meet the requirements of law.

4. Other insurance. Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

C. Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense.

D. Insurance Trustee; shares of proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the apartment owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Lee County Bank, Fort Myers, Florida, as Trustee, or to any other bank in Florida with trust powers as may be approved by the Board of Directors of the Association, which Trustee is herein referred to as the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated herein and for the benefit of the apartment owners and their mortgagees in the following shares, but which shares need not be set forth on the records of the Insurance Trustee:

1. Common elements. Proceeds on account of damage to common elements - an undivided share for each apartment owner, such share being the same as the undivided share in the common elements appurtenant to his apartment.

2. Apartments. Proceeds on account of damage to apartments shall be held in the following undivided shares:

(a) When the building is to be restored - for the owners of damaged apartments in proportion to the cost of repairing the damage suffered by each apartment owner, which cost shall be determined by the Association.

(b) When the building is not to be restored - an undivided share for each apartment owner, such share being the same as the undivided share in the common elements appurtenant to his apartments.

3. Mortgagees. In the event a mortgagee endorsement has been issued as to an apartment, the share of the apartment owner shall be held in trust for the mortgagee and the apartment 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.

E. Distribution of proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

1. Expense of the trust. All expenses of the Insurance Trustee shall be first paid or provisions made therefor.

2. Reconstruction or repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to apartment owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of an apartment and may be enforced by such mortgage.

3. Failure to reconstruct or repair. If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners remittances to apartment owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of an apartment and may be enforced by such mortgagee.

4. Certificate. In making distribution to apartment owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association as to the names of the apartment owners and their respective shares of the distribution.

F. Association as Agent. The Association is hereby irrevocably appointed agent for each apartment owner and for each owner of a mortgage or other lien upon an apartment and for each owner or 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.

#### NINTH - RECONSTRUCTION OR REPAIR AFTER CASUALTY.

A. Determination to reconstruct or repair. If any part of the condominium property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

1. Common element. If the damaged improvement is a common element, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the condominium shall be terminated.

#### 2. Apartment building.

(a) Partial destruction. If the damaged improvement is an apartment building, and if any apartment in the condominium is found by the Board of Directors of the Association to be tenantable, the damaged property shall be reconstructed or repaired unless within sixty (60) days after the casualty it is determined by agreement in the manner elsewhere provided that the condominium shall be terminated.

(b) Total destruction. If the damaged improvement is an apartment building, and if none of the apartments in the condominium are found by the Board of Directors of the Association to be tenantable, then the damaged property will not be reconstructed or repaired and condominium will be terminated without agreement as elsewhere provided, unless within sixty (60) days after the casualty the owners of 75% of the common elements agree in writing to such reconstruction or repair.

3. Certificate. The Insurance Trustee 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 or repaired.

B. Plans and specifications. Any reconstruction or repair must be substantially in accordance with plans and specifications for the original building, portions of which are attached hereto 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 an apartment building, by the owners of all damaged apartments therein which approvals shall not be unreasonably withheld.

C. Responsibility. If the damage is only to those parts of one apartment for which the responsibility of maintenance and repair is that of the apartment owner, then the apartment owner shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of

reconstruction and repair after casualty shall be that of the Association.

D. Estimate of costs. Immediately after a determination to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

E. Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against all apartment owners in the case of damage to common elements, in sufficient amounts to provide funds for the payment of such costs. Such assessments against apartment owners for damage to apartments shall be in proportion to the cost of reconstruction and repair of their respective apartments. Such assessments on account of damage to common elements shall be in proportion to the owner's share in the common elements.

F. Construction funds. The funds for payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Association from assessments against apartment owners, shall be disbursed in payment of such costs.

1. Association. If the total of assessments made by the Association in order to provide funds for payment of costs or reconstruction and repair which is the responsibility of the Association is more than \$5,000.00, then the sums paid upon such assessments shall be deposited by the Association with the Insurance Trustee. In all other cases the Association shall hold the sums paid upon such assessments and disburse the same in payment of the costs of reconstruction and repair.

2. Insurance Trustee. The proceeds of insurance collected on account of a casualty, and the sums deposited with the Insurance Trustee by the Association from collections of assessments against apartment owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

(a) Apartment owner. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with an apartment owner shall be paid by the Insurance Trustee to the apartment owner or if there is a mortgagee endorsement as to such apartment, then to the apartment owner and the mortgagee jointly, who may use such proceeds as they may be advised.

(b) Association - lesser damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than \$5,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request to the Insurance Trustee by a mortgagee which is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the construction and repair of major damage.

(c) Association-major damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is more than \$5,000.00, then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association and upon approval of an engineer qualified to practice in Florida and employed by the Association to supervise the work.

(d) Surplus. It shall be presumed that the first moneys disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated; except, however, that the part of a distribution to a beneficial owner which is not in excess of assessments paid by such owner into construction fund shall not be made payable to any mortgagee.

(e) Certificate. Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by apartment owners upon assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether disbursements from the construction fund are to be upon the order of the Association or upon approval of an engineer or otherwise, nor whether a disbursement is to be made from the construction fund nor to determine the payee nor the amount to be paid, nor to determine whether surplus funds to be distributed are less than the assessments paid by owners. Instead, the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to any or all of such matters and stating that the sums to be paid are due and properly payable and stating the name of the payee and the amount to be paid; provided that when a mortgagee is herein required to be named as payee, the Insurance Trustee shall also name the mortgagee as payee; and further provided that when the Association, or a mortgagee which is the beneficiary of an insurance policy the proceeds of which are included in the construction fund, so requires, the approval of an engineer named by the Association shall be first obtained by the Association.

TENTH - USE RESTRICTIONS. The use of the property of the condominium shall be in accordance with the following provisions so long as the condominium exists upon the land:

A. Apartments. Each of the apartments shall be occupied by a single family, its servants and guests, as a residence and for no other purpose. Except as reserved to Developer, no apartment may be divided or subdivided into a smaller unit, nor any portion thereof sold or otherwise transferred; without first amending this Declaration to show the changes in the apartments to be effected thereby.

B. Common Elements. The common elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the apartments.

C. Nuisances. No nuisances shall be allowed upon the condominium property, nor any use or practice which 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 property 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 apartment owner shall permit any use of his apartment or make any use of common elements which will increase the rate of insurance upon the condominium property.

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

the same as the responsibility for the maintenance and repair of the property concerned.

E. Leasing. Apartments may be leased in accordance with rules and regulations from time to time adopted by the Board of Directors of the Association.

F. Regulations. Reasonable regulations concerning the use of the condominium property may be made and amended from time to time by the Board of Directors of the Association; provided, however, that all such regulations and amendments thereto shall be approved by not less than two-thirds of the votes of the Association before such shall become effective. Members not present at meetings considering such regulations or amendments thereto may express their approval in writing. Copies of such regulations and amendments thereto shall be furnished by the Association to all apartment owners and residents of the condominium upon request.

G. Use of Common Areas. In addition to such regulations may be from time to time duly adopted with respect to common areas, the following restrictions shall be applicable thereto:

1. No part of the condominium property, including assigned parking spaces, shall be used for the storage of travel trailers, utility trailers, boats or boat trailers without written approval of the Board of Directors of the Association. Any such vehicles remaining on the premises for longer than forty-eight (48) hours shall be deemed storage as prohibited hereunder.

2. All walkways, veranda and passageways used or set aside for pedestrian travel shall be kept clear at all times of chairs, rafts, tables or obstacles of any type.

3. No railing or planter box shall be used for the draping and drying of towels, swim suits, clothing or similar articles thereby creating an unsightly condition.

H. Proviso. Provided, however, that until Developers have completed and sold all of the existing apartments of the condominium, neither the apartment owners nor the Association nor the use of the condominium property shall interfere with the completion of the contemplated improvements and the sales of the apartments. Developers may make such use of the unsold units and common areas as may facilitate such completion and sales, including but not limited to maintenance of a sales office, the showing of the property and display of signs.

ELEVENTH - MAINTENANCE OF COMMUNITY INTERESTS. In order to maintain a community of congenial residents and thus protect the value of the apartments, the transfer of apartments by any other owner other than the Developer shall be subject to the following provisions so long as the condominium exists and any of the apartment buildings in useful condition exist upon the land, which provisions each owner covenants and observes;

A. Transfers subject to approval.

1. Sale. No apartment owner may dispose of an apartment or any interest therein by sale without approval of the Association except to an apartment owner.

2. Lease. No apartment owner may lease, except in accordance with rules and regulations from time to time adopted by the Board of Directors of the Association, however, leases in excess of one (1) year must be expressly approved by said Board of Directors.

3. Gift. If any apartment owner shall acquire his title by gift, the continuance of his ownership of his apartment shall be subject to the approval of the Association.

4. Devise or inheritance. If any apartment owner shall acquire his title by devise or inheritance, the continuance of his ownership of his apartment shall be subject to the approval of the Association.

5. Other transfers. If any apartment owner shall acquire his title by any manner not heretofore considered in the foregoing subsections, the continuance of his ownership to his apartment shall be subject to the approval of the Association.

B. Approval by Association. The approval of the Association which is required for the transfer of ownership of apartments shall be obtained in the following manner:

1. Notice to Association.

(a) Sale. An apartment owner intending to make a bonafide sale of his apartment or any interest therein shall give to the Association notice of such 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. Such notice at the apartment owner's option may include a demand by the apartment owner that the Association furnish a purchaser if the proposed purchaser is not approved; and if such demand is made, the notice shall be accompanied by an executed copy of the proposed contract to sell.

(b) Lease. Any apartment owner intending to make a bonafide lease of his apartment or any interest therein shall give to the Association notice of such 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 an executed copy of the proposed lease, if the lease period is longer than one (1) year.

(c) Gift: devise or inheritance; other transfers. An apartment owner who has obtained his title by gift, devise or inheritance, or by any other manner not heretofore considered, shall give to the Association notice of the acquiring of his title, together with such information concerning the apartment owner as the Association may reasonably require, and a certified copy of the instrument evidencing the owner's title.

(d) Failure to give notice. If the notice to the Association herein required is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of an apartment, 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 such disapproval.

2. Certificate of approval.

(a) Sale. If the proposed transaction is a sale then within thirty (30) days after receipt of such 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 and shall be delivered to the purchaser and shall be recorded in the Public Records of Lee County, Florida.

(b) Lease. If the proposed transaction is a lease for a period of time longer than one (1) year, then within thirty (30) days after receipt of such 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 and shall be delivered to the lessee.

OFF 1580 PC 99

(c) Gift: devise or inheritance; other transfers

If the apartment owner giving notice has acquired his title by gift, devise or inheritance or in any other manner, then within thirty (30) days after receipt of such notice and information the Association must either approve or disapprove the continuance of the apartment owner's ownership of his apartment. If approved, the approval shall be stated in a certificate executed by the President and Secretary of the Association in recordable form and shall be delivered to the apartment owner and shall be recorded in the Public Records of Lee County, Florida.

(d) Fee; No fee shall be charged in connection with the transfer, sale or approval process in excess of expenditures reasonably required for said transfer, sale or approval and this expense shall not exceed \$50.00. No fee shall be charged in connection with the approval process for the renewal or extension of a lease.

C. Disapproval by Association. If the Association shall disapprove a transfer or ownership of an apartment, the matter shall be disposed in the following manner:

1. Sale. If the proposed transaction is a sale and if the notice of sale given by the apartment owner shall so demand, then within thirty (30) days after receipt of such notice and information the Association shall deliver or mail by registered mail to the apartment owner an agreement to purchase by a purchaser approved by the Association who will purchase and to whom the apartment owner must sell the apartment upon the following terms:

(a) 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 to sell or shall be the fair market value determined by 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 apartment and a judgment of a specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

(b) The purchase price shall be paid in cash.

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

(d) If the Association shall fail to provide a purchaser upon the demand of the apartment owner in the manner provided, or if a purchaser furnished by the Association shall default in his agreement to purchase, the proposed transaction shall be deemed to have been approved and the Association shall furnish a certificate of approval as elsewhere provided.

2. Lease. If the proposed transaction is a lease longer than one (1) year, the apartment owner shall be advised of the disapproval in writing and the lease shall not be made. Shorter leases shall be invalid if not in accordance with rules and regulations adopted by the Board of Directors of the Association.

3 Gifts: devise or inheritance; other transfers.

If the apartment owner giving notice has acquired his title by gift, devise or inheritance, or in any other manner, then

within thirty (30) days after receipt from the apartment owner of the notice and information required to be furnished the Association shall deliver or mail by registered mail to the apartment owner an agreement to purchase by a purchaser approved by the Association who will purchase and to whom the owner must sell the apartment upon the following terms:

(a) The sale price shall be the fair market value determined by agreement between the seller and purchaser within thirty (30) days from the delivery or mailing of such agreement, and in the absence of agreement as to price, it 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 apartment; and a judgment of a specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

(b) The purchase price shall be paid in cash.

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

(d) If the Association shall fail to provide a purchaser as herein required, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval such ownership shall be deemed to have been approved and the Association shall furnish a certificate of approval as elsewhere provided.

D. Mortgage. No apartment owner may mortgage his apartment nor any interest therein without the approval of the Association except to a bank, life insurance company, a federal savings and loan association, a real estate investment trust, an institutional mortgage banker or institutional mortgage broker. The approval of any other mortgagee may be upon conditions determined by the Association or may be arbitrarily withheld.

E. Exceptions. The foregoing provisions of this section entitled "Maintenance of community interests" shall not apply to a transfer to or purchase by an institutional mortgagee, which acquires its title as the result of owning a mortgage upon the apartment concerned, and this shall be so whether the title is acquired by deed from the mortgagor or his successor in title or through foreclosure proceedings; not shall such provisions apply to a transfer, sale or lease by an institutional mortgagee which so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires the title to an apartment at a duly advertised public sale with open bidding which is provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale or tax sale.

F. Unauthorized transactions. Any sale, mortgage or lease which is not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

G. Notice of lien or suit.

1. Notice of lien. An apartment owner shall give notice to the Association of every lien upon his apartment other than for permitted mortgages, taxes and special assessments within five (5) days after the attaching of the lien.

2. Notice of suit. An apartment owner shall give notice to the Association of every suit or other proceeding which may affect the title to his apartment, such notices shall be given within five (5) days after the apartment owner receives knowledge thereof.

3. Failure to comply with this subsection concerning liens will not affect the validity of any judicial sale.

TWELFTH - COMPLIANCE AND DEFAULT. Each apartment owner shall be governed by and shall comply with the terms of the Declaration of Condominium, By-Laws and Regulations adopted pursuant thereto and said documents and regulations as they may be amended from time to time. Failure of apartment owner to comply therewith shall entitle the Association or other apartment owners to the following relief in addition to the remedies provided by the Condominium Act.

A. Negligence. An apartment owner shall be liable for the expense of any maintenance repair or replacement rendered necessary by his act, neglect or carelessness or by that of any member of his family or his or their guests, employees, agents, or lessees, but only to the extent that such expense is met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonments of an apartment or its appurtenances, or of the common elements.

B. Costs and attorney's fees. In any proceeding arising because of an alleged failure of an apartment owner to comply with the terms of the Declaration, By-Laws and Regulations adopted pursuant thereto, and said documents and regulations as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney fees as may be awarded by the Court.

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

THIRTEENTH - AMENDMENTS. This Declaration of Condominium and the By-Laws of DAVIS WOODS CONDOMINIUM ASSOCIATION, INC., may be amended in the following manner as well as in the manner elsewhere provided:

A. 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.

B. Resolution. A resolution adopting the proposed amendment may be proposed by either the Board of Directors of the Association or by the members of the Association. Directors and members not present at the meetings considering the amendment may express their approval in writing. Except as elsewhere provided, such approvals must be either by:

1. Not less than three directors and by not less than seventy-five (75%) percent of the votes of the members of the Association; or

2. Until the first election of directors, only by all of the directors, provided the amendment does not increase the number apartments nor alter the boundaries of the common elements.

C. Agreement. In the alternative, an amendment may be made by an agreement signed and acknowledged by all of the record owners of apartments in the condominium in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the Public Records of Lee County, Florida.

D. Proviso. Provided, however, that no amendment shall discriminate against any apartment owner or against any apartment or class or group of apartments unless the apartment owners so affected shall consent; and no amendment shall change

any apartment nor share in the common elements appurtenant to it, nor increase the owner's share of the common expenses, unless the record owner of the apartment concerned and all record owners of mortgages thereon shall join in the execution of the amendment. Neither shall an amendment of this Declaration make any change in the section entitled "Insurance" nor in the section entitled "Reconstruction or repair after casualty" unless the record owners of all mortgages upon apartments in the condominium shall join in the execution of the amendment.

E. Execution and recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the officers of the Association with formalities of a deed. The amendment shall be effective when such certificate and copy of the amendment are recorded in the Public Records of Lee County, Florida.

FOURTEENTH - TERMINATION. The condominium may be terminated in the following manner in addition to the manner provided by the Condominium Act:

A. Destruction. In the event it is determined in the manner elsewhere provided that the apartment building shall not be reconstructed because of major damage, the condominium plan of ownership will be thereby terminated without agreement.

B. Agreement. The condominium may be terminated at any time by the approval in writing of all of the owners of the condominium, and by all record owners of mortgages upon apartments therein owned by a bank, life insurance company or a federal savings and loan association. If the proposed termination is submitted to a meeting of the members of the Association, the notice of which meeting gives notice of the proposed termination, and if the approval of the owners of not less than seventy-five (75%) percent of the common elements, and of the record owners of all mortgages upon apartments in the condominium, owned by a bank, life insurance company or a federal savings and loan association, are obtained not later than thirty (30) days from the date of such meeting, then the approving owners shall have an option to buy all of the apartments of the other owners for the period ending on the 60th day from the date of such meeting. Such option shall be upon the following terms:

1. Exercise of option. The option shall be exercised by delivery or mailing by registered mail to each of the record owners of the apartments to be purchased of an agreement to purchase signed by the record owners of apartments who will participate in the business. Such agreement shall indicate which apartments will be purchased by each participating owner and shall agree to purchase all of the apartments owned by owners not approving the termination, but the agreement shall effect a separate contract between each seller and his purchaser.

2. Price. The sale price of each apartment shall be the fair market value determined by agreement between the seller and purchaser within thirty (30) days from the delivery or mailing of such agreement, and in the absence of agreement as to price, it 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 apartment; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

3. Payment. The purchase price shall be paid in cash.

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

C. 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 affecting the termination, which certificate shall become effective upon being recorded in the Public Records of Lee County, Florida.

D. Share of owners after termination. After termination of the condominium the apartment owners shall own the condominium property and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees and lienees shall have mortgages and liens upon the respective undivided shares of the apartment owners. Such undivided shares of the apartment owners shall be the same as the undivided shares in the common elements appurtenant to the owner's apartments prior to the termination.

E. Amendment. This section concerning termination cannot be amended without consent of all apartment owners and of all owners of mortgages required to approve termination by agreement.

FIFTEENTH - 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 and the By-Laws and Regulations of the Association shall not affect the validity of the remaining portions thereof.

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

OUTER ISLAND DEVELOPMENT OF FLORIDA, INC.

✓ BY:

Robert R. Hollopeter  
Robert R. Hollopeter  
President

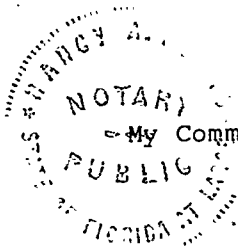
David G. Thompson  
David G. Thompson  
Secretary

STATE OF FLORIDA )  
 )  
COUNTY OF LEE )

REC. 1580 PC 104

I HEREBY CERTIFY that on this 5 day of February, A.D. 19 82, before me personally appeared ROBERT R. HOLLOPETER and DAVID G. THOMPSON, President and Secretary respectively of OUTER ISLAND DEVELOPMENT OF FLORIDA, INC., a Florida Corporation, to me known to be the persons described in and who executed the foregoing Declaration of Condominium and acknowledged the execution thereof to be their free acts and deeds as such officer, for the uses and purposes therein mentioned; and that he affixed thereto the official seal of said Corporation, and the said instrument is the act and deed of said Corporation.

WITNESS my signature and official seal at Fort Myers, FL in the County of Lee and the State of Florida, the day and year last aforesaid.



My Commission Expires:

Nancy A. [unclear]  
Notary Public

Notary Public, State of Florida  
My commission expires June 9, 1985

FOR GOOD AND VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, DAVIS WOODS CONDOMINIUM ASSOCIATION, INC., a Florida Corporation not for profit, hereby agrees to accept all the benefits and all of the duties, responsibilities, obligations and burdens imposed on it by the provisions of the Declaration.

IN WITNESS WHEREOF, DAVIS WOODS CONDOMINIUM ASSOCIATION, INC., has this 5 day of February, 19 82, caused these presents to be signed in its name by its President and attested by its Secretary at Fort Myers Florida.



DAVIS WOODS CONDOMINIUM ASSOCIATION, INC.

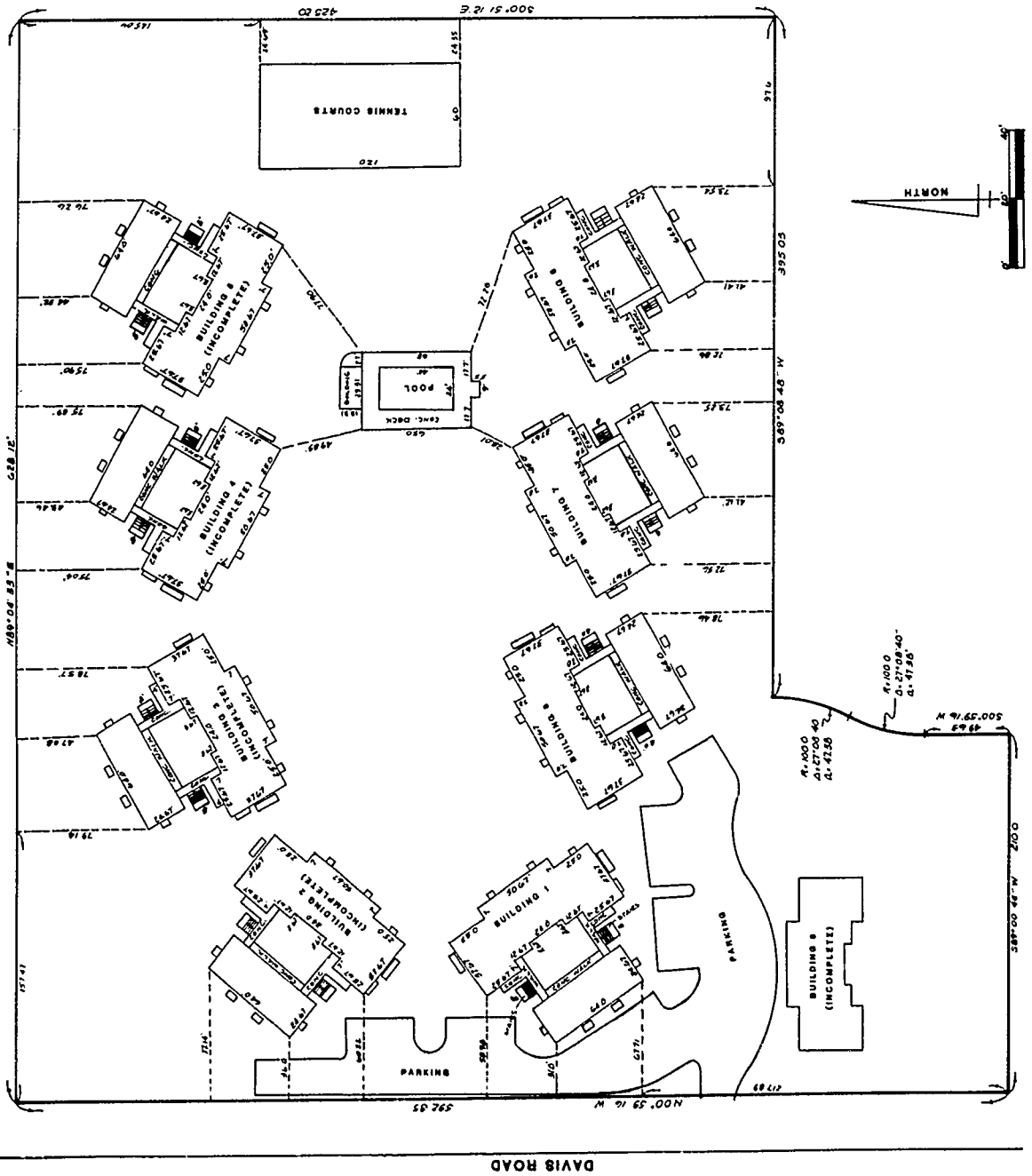
✓ By: Robert R. Hollopetter

ATTEST:

By: David G. Thompson

**DAVIS WOODS**  
A CONDOMINIUM

IN SECTION 2, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA.



## A CONDOMINIUM

CONDOMINIUM PLAT BOOK		PAGE
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**SHEET 1 OF 2**

**Howell F. Davis & Associates, Inc.**  
Consulting Engineers and Surveyors  
6323 McGregor Blvd. (813) 481-1331  
FORT MYERS, FLORIDA 33907

FEBRUARY 1982

A TRACT OR PARCEL SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 20, TOWNSHIP 46 SOUTH, RANGE 23 EAST AND FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

STARTING AT THE NORTHEAST CORNER OF THE SOUTHEAST ONE QUARTER (SE 1/4) OF THE SAID SECTION 20, THENCE S89° 00' E TO A POINT ON THE CURVE CONTAINING 20 FEET OF THE SAID FRACTION 21° 00' FEET TO THE PRINCIPAL PLACE OF BEGINNING, THENCE SUNDING S 0° 51' 12" E ALONG SAID EAST LINE FOR 452.20 FEET TO AN IRON PILE WIDE FOR 392.03 FEET TO A POINT ON A CURVE CONTAINING TO THE WEST THERE IS 89° 08' 48" W ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 2° 08' 44" TO AN IRON PILE, THENCE SUNDING S 0° 50' 16" E FOR 49.62 FEET; THENCE S 89° 00' 44" FOR 47.38 FEET, THENCE S 0° 50' 16" E ALONG THE EASTERLY RIGHT-OF-WAY LINE OF THE ROAD 66.00 FEET WIDE FOR 392.85 FEET, THENCE N 89° 04' 33" E FOR 679.12' TO THE SOUTHWEST CORNER OF THE SAID PARCEL, SUBJECT TO ALL RIGHTS OF WAYS, EASEMENTS AND RESTRICTIONS OF RECORD.

1. ELEVATIONS ARE BASED ON MEASURED GEOMETRIC VERTICAL DATUM.
2. ALL EXTERIOR WALLS ARE 0.67 FEET (8") THICK, UNLESS OTHERWISE SHOWN.
3. ALL INTERIOR DIVIDING WALLS ARE 0.56 FEET (8") THICK.
4. ALL WALLS OF ALL BUILDINGS ARE 0.56 FEET (8") THICK.
5. ALL WALLS OF ALL BUILDINGS AND UNITS, UNLESS OTHERWISE SHOWN ARE CONCRETE.
6. ALL TILES FOR BUILDING LOCATIONS ARE 90° TO THE BOUNDARY LINE. OWNERSHIP OF THE UNITS EXTENDS FROM THE PLANE OF THE UNFINISHED INTERIOR WALL TO THE PLANE OF THE UNFINISHED PERIMETER WALL AND FROM THE CEILING TO THE FLOOR. UNITS ARE TO BE NOT WITHSTANDING THE FOREGOING, CEILING, ALL AS INDICATED HEREON, SHALL BE THE PROPERTY OF THE OWNER. THE ACTUAL LOCATION OF THE UNIT AS THE SAME MAY EXIST FROM TIME TO TIME SHALL GOVERN.
7. THE COMMON AREAS ARE COMMON AREAS, AND THOSE PORTIONS OF THE COMMON AREAS WHICH ARE NOT DESIGNATED AS COMMON AREAS.
8. BUILDINGS ARE FOR RESIDENTIAL USE ONLY.

BUILDING 1	BUILDING 2	BUILDING 3	BUILDING 4	BUILDING 5	BUILDING 6	BUILDING 7	BUILDING 8	BUILDING 9
1ST FLOOR - 6.0'	1ST FLOOR - 6.0'	1ST FLOOR - 6.0'	1ST FLOOR - 6.0'	1ST FLOOR - 6.0'	1ST FLOOR - 6.1'	1ST FLOOR - 6.2'	1ST FLOOR - 6.1'	1ST FLOOR - 6.0'
2ND FLOOR - 14.7'	2ND FLOOR - 14.7'	2ND FLOOR - 14.5'	2ND FLOOR - 14.4'	2ND FLOOR - 14.4'	2ND FLOOR - 14.6'	2ND FLOOR - 14.7'	2ND FLOOR - 14.7'	2ND FLOOR - 14.6'
ROOF - 29.8'	ROOF - 29.8'	ROOF - 29.5'	ROOF - 29.4'	ROOF - 29.4'	ROOF - 29.6'	ROOF - 29.7'	ROOF - 29.7'	ROOF - 29.4'

I HEREBY CERTIFY THAT THE CONSTRUCTION OF THE IMPROVEMENTS AS DESCRIBED HEREIN IS NOT SUBSTANTIALLY COMPLETE SO THAT THIS MATERIAL, TOGETHER WITH THE PROVISIONS OF THE BUILDING CODE, SHALL BE CONSIDERED AS CREATING A COMPLETELY NEW PROPERTY, NOT YET AN ELEGANT REPRESENTATION OF THE LOCATION AND DIMENSIONS OF THE IMPROVEMENT AND THAT THE IDENTIFICATION, LOCATION AND DIMENSIONS OF THE COMPLETION OF THESE MATERIALS CANNOT BE DETERMINED FROM THESE MATERIALS.

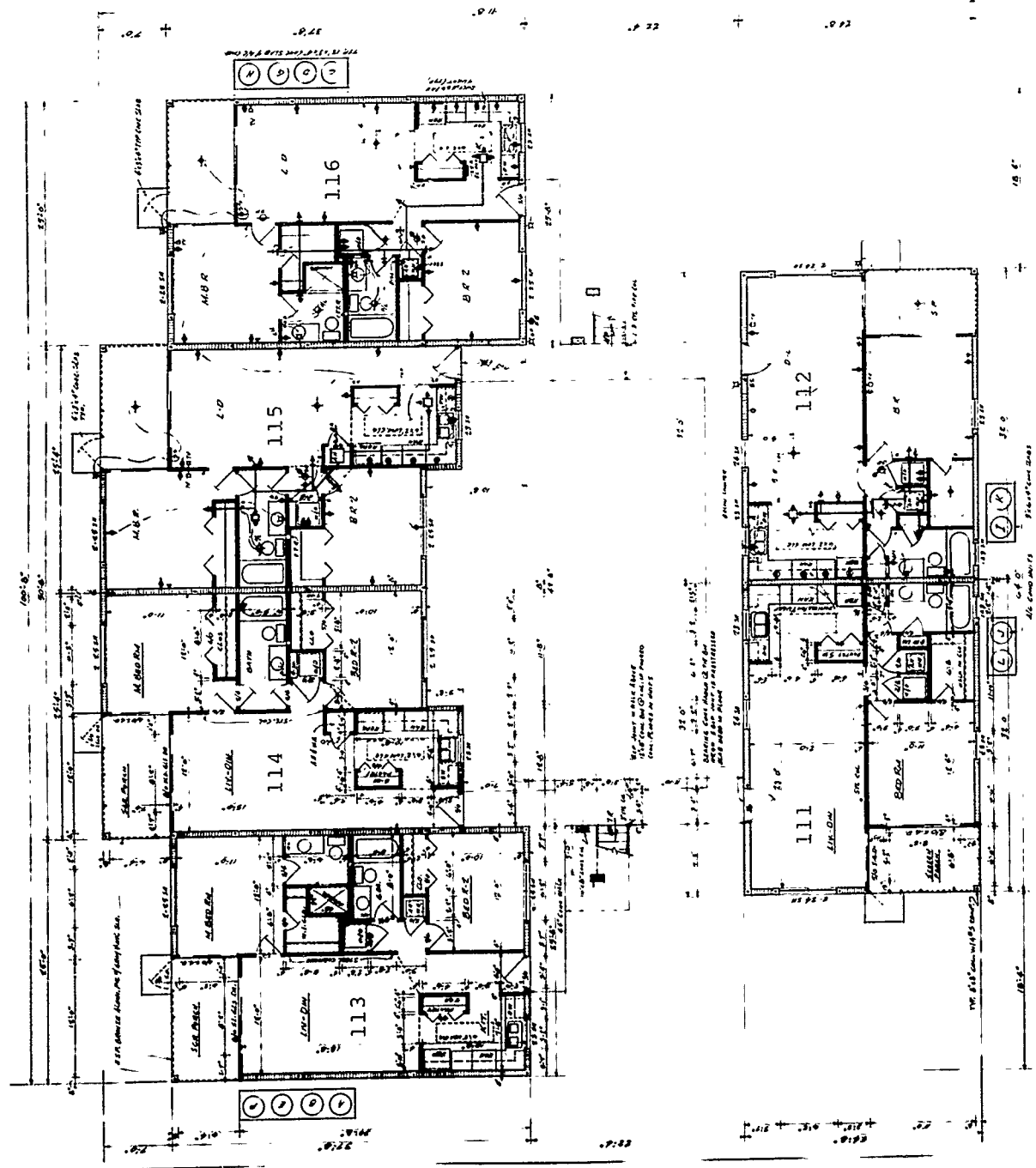
HEREBY CERTIFY THAT THE CONSTRUCTION OF THE IMPROVEMENTS AS DESCRIBED HEREIN IS NOT SUBSTANTIALLY COMPLETE, SO THAT THIS PROJECT IS NOT ELIGIBLE FOR CONDOMINIUM DEFEASANCE. THE DECLARATION OF CONDOMINIUM DESCRIBING THE CONDOMINIUM PROPERTY IS NOT AN ACCURATE REPRESENTATION OF THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS, AND THAT THE IDENTIFICATION, LOCATION AND DIMENSIONS OF THE COMMON ELEMENTS AND OF EACH UNIT CANNOT BE DETERMINED FROM THESE MATERIALS.

Willis Green

WILLIAM E. BEAN REGISTERED LAND SURVEYOR,  
FLORIDA REGISTRATION #J261



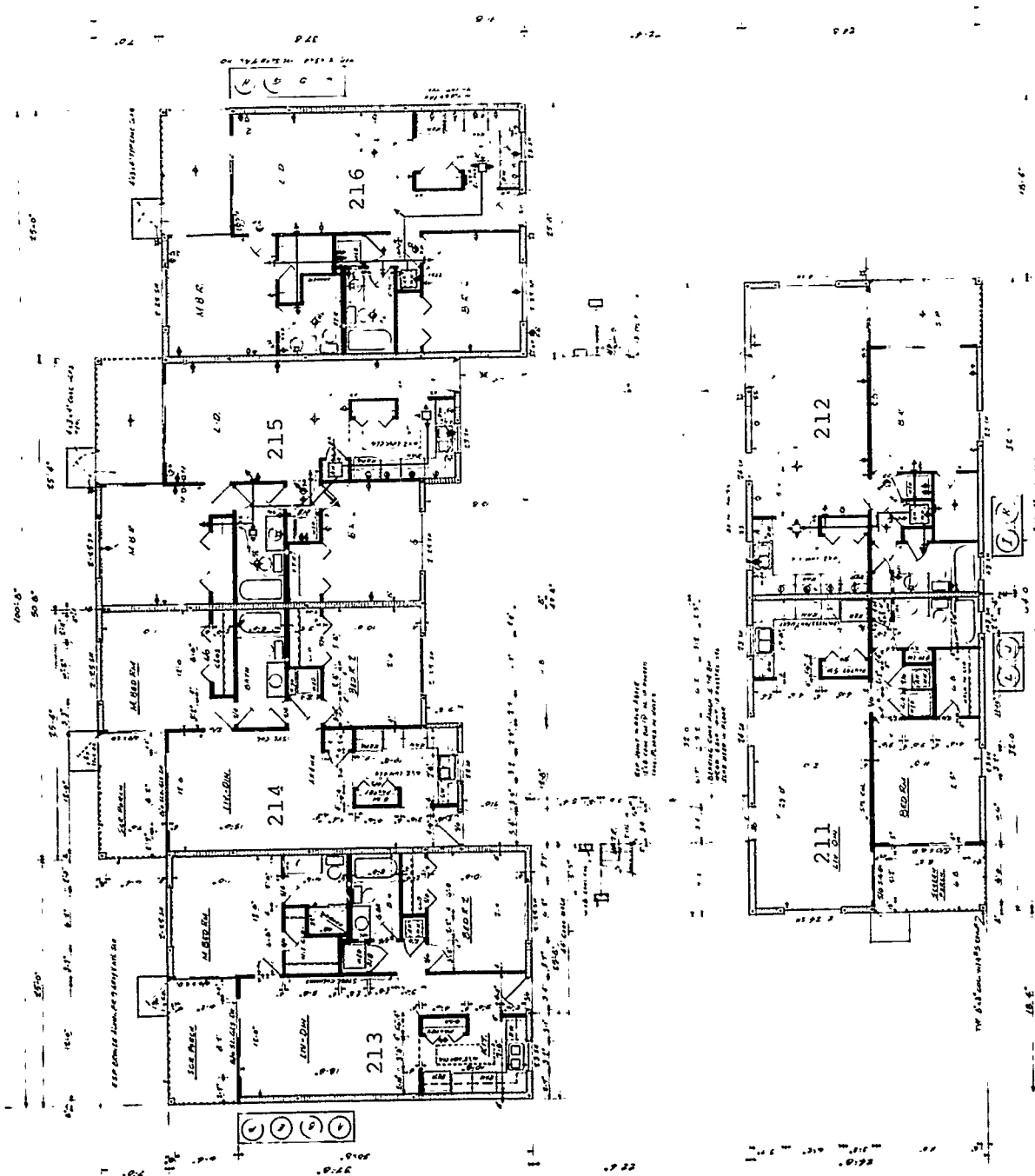
REC 1580 PG 107



BUILDING 1  
FIRST APARTMENT LEVEL

EXHIBIT "B"

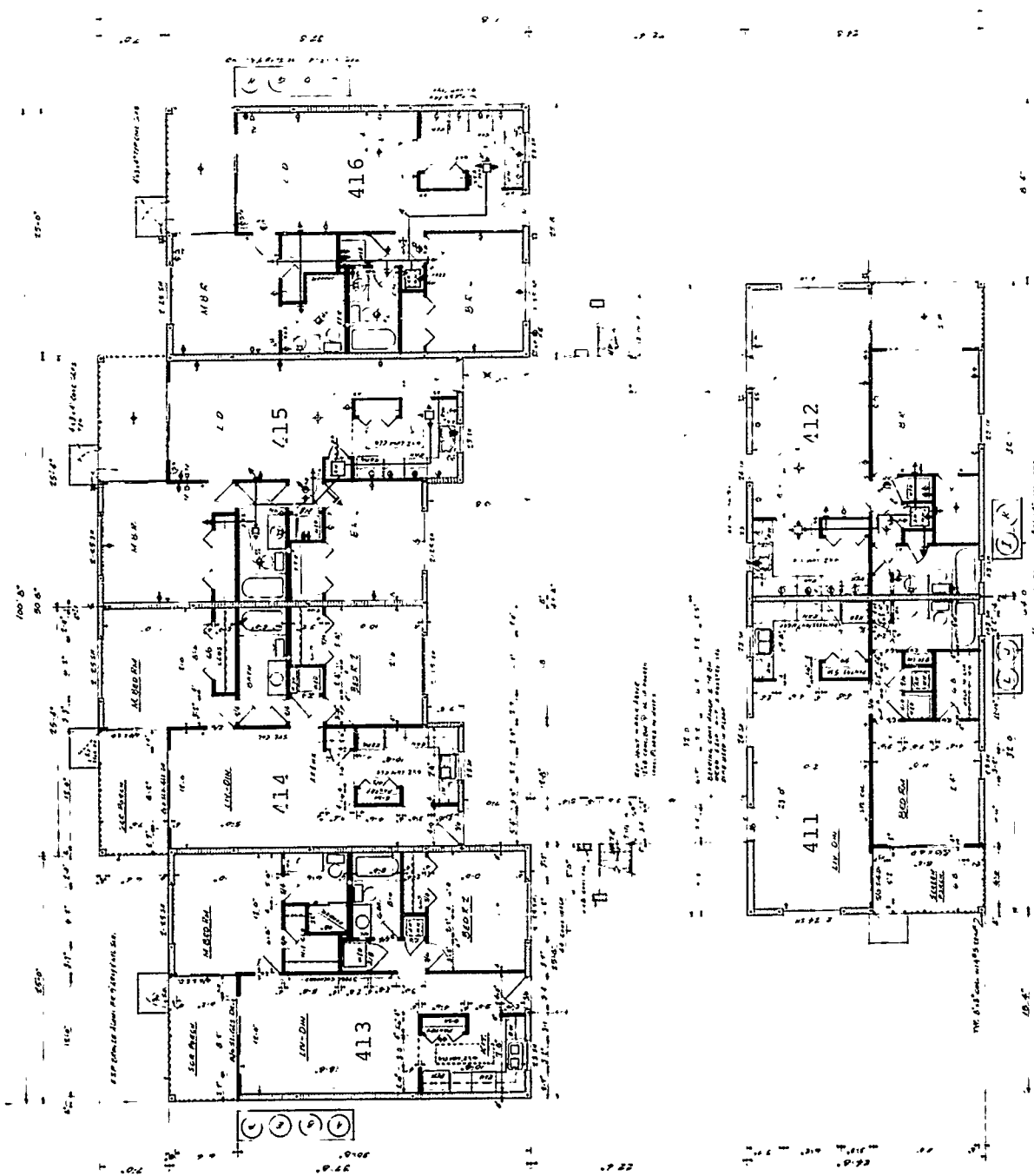
REF 1580 PG 108  
REC



BUILDING 2  
FIRST APARTMENT LEVEL



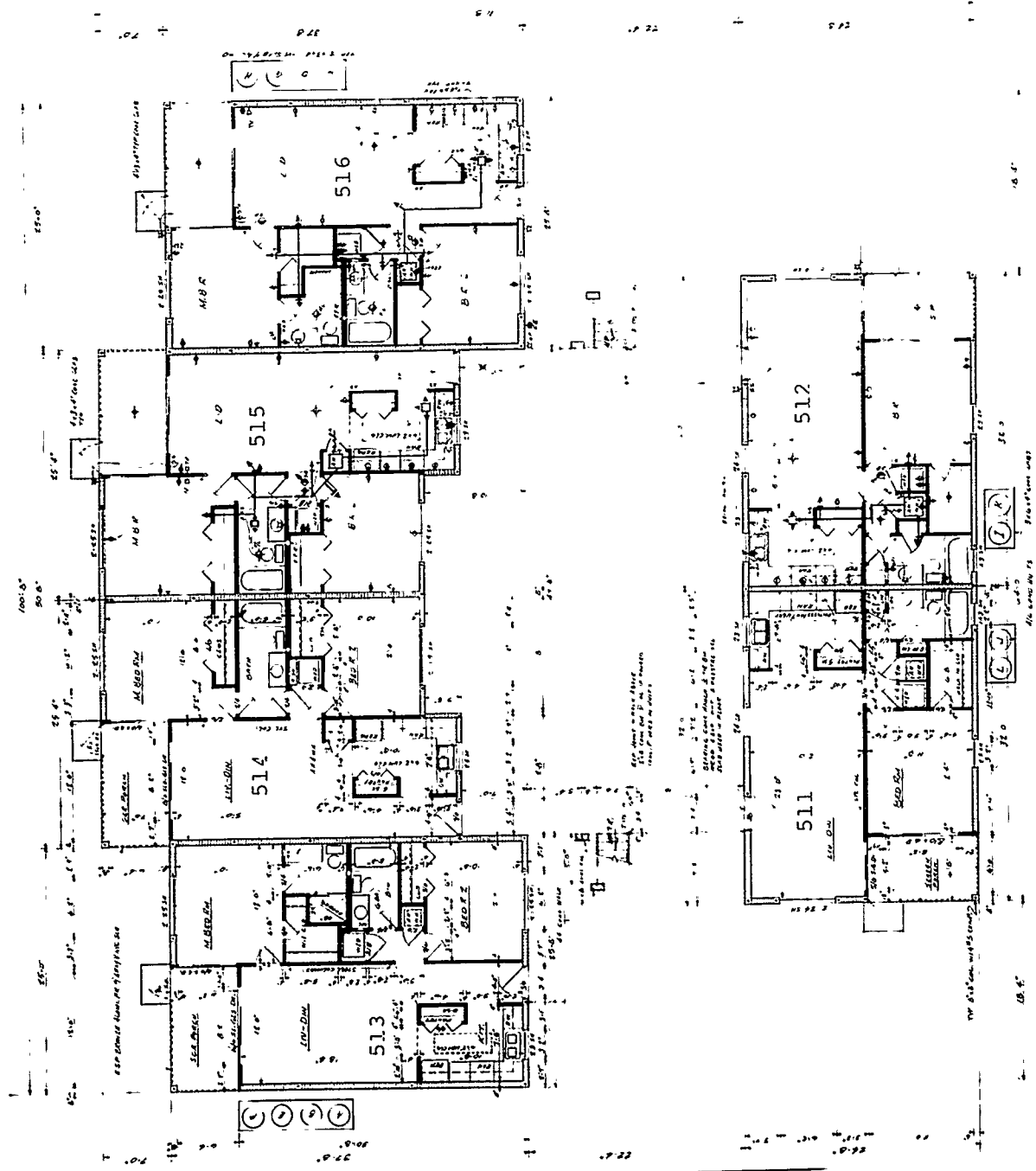
1580 PC 110



BUILDING 4  
FIRST APARTMENT LEVEL

EXHIBIT "B"

REC 1580 PG 111



BUILDING 5  
FIRST APARTMENT LEVEL

REC 1580 PG 112

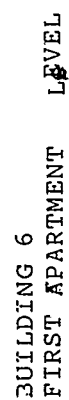
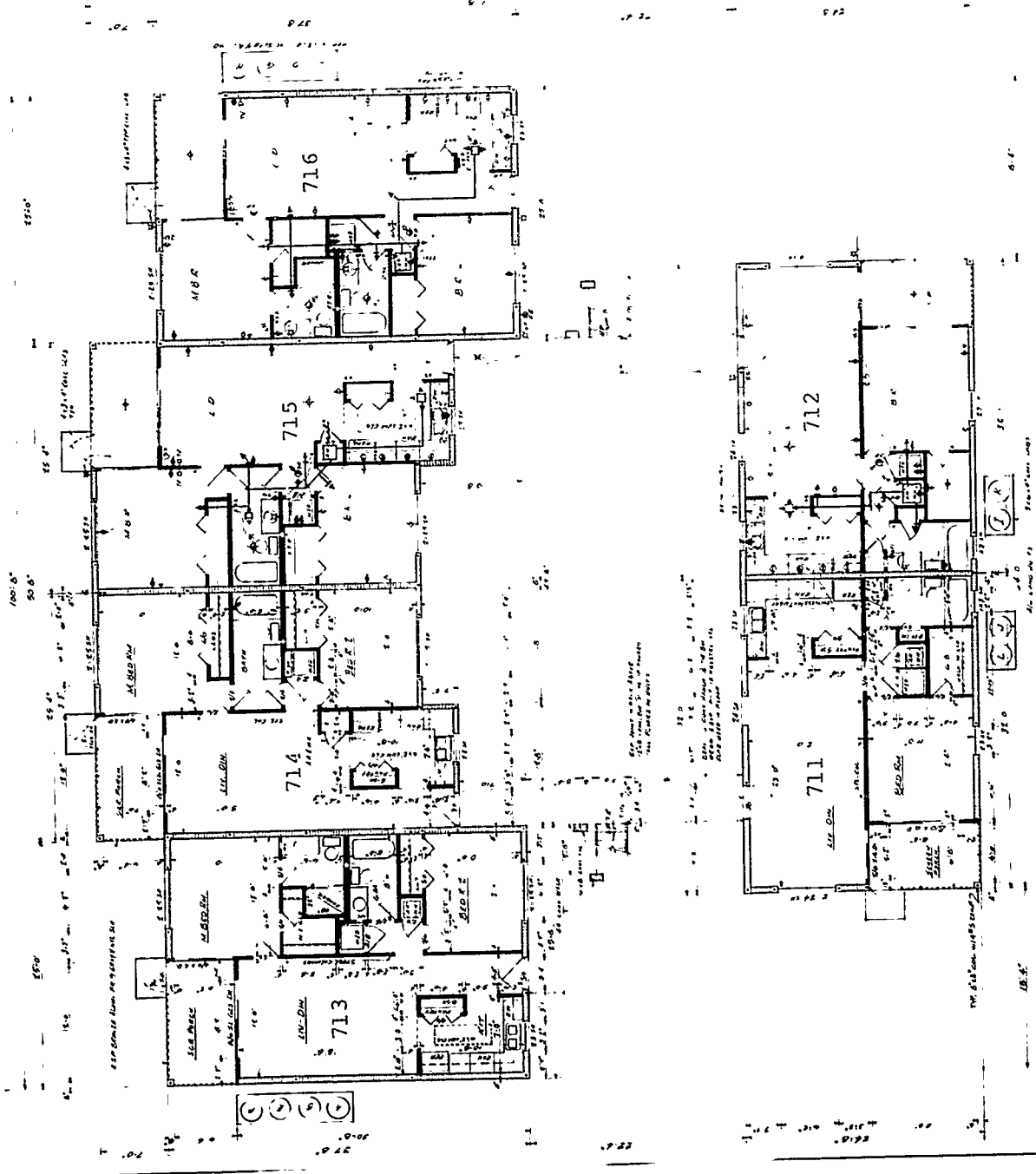


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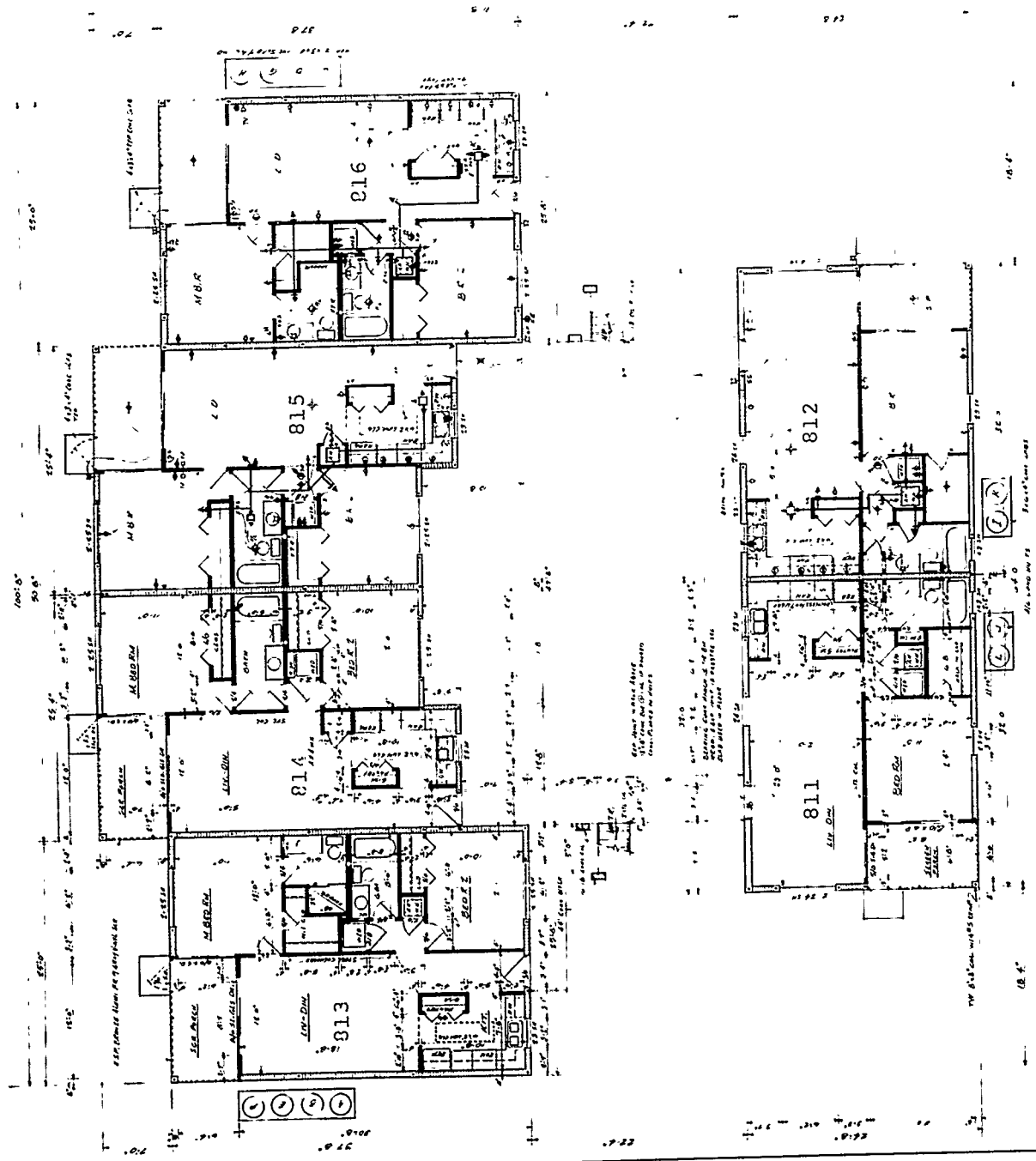
REF 1580- 113  
710



BUILDING 7  
FIRST APARTMENT LEVEL

EXHIBIT "B"

REF 1580 PG 114

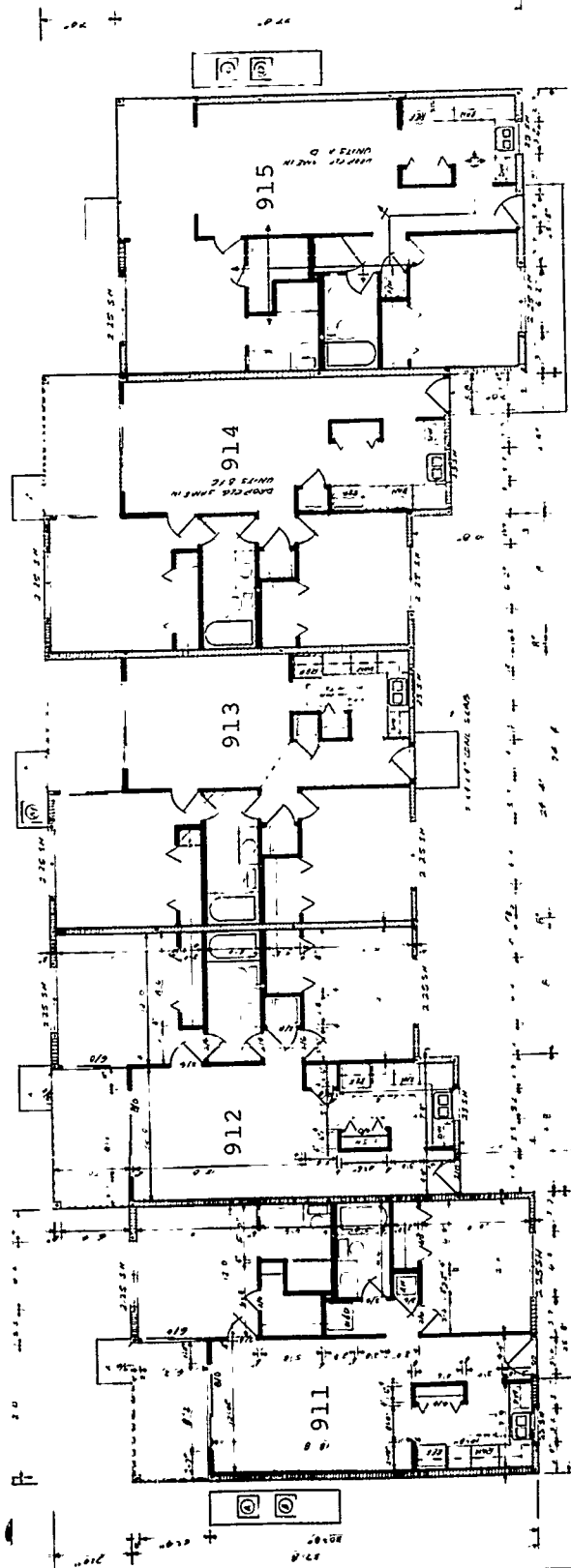


BUILDING 3  
FIRST APARTMENT LEVEL



EXHIBIT "B"

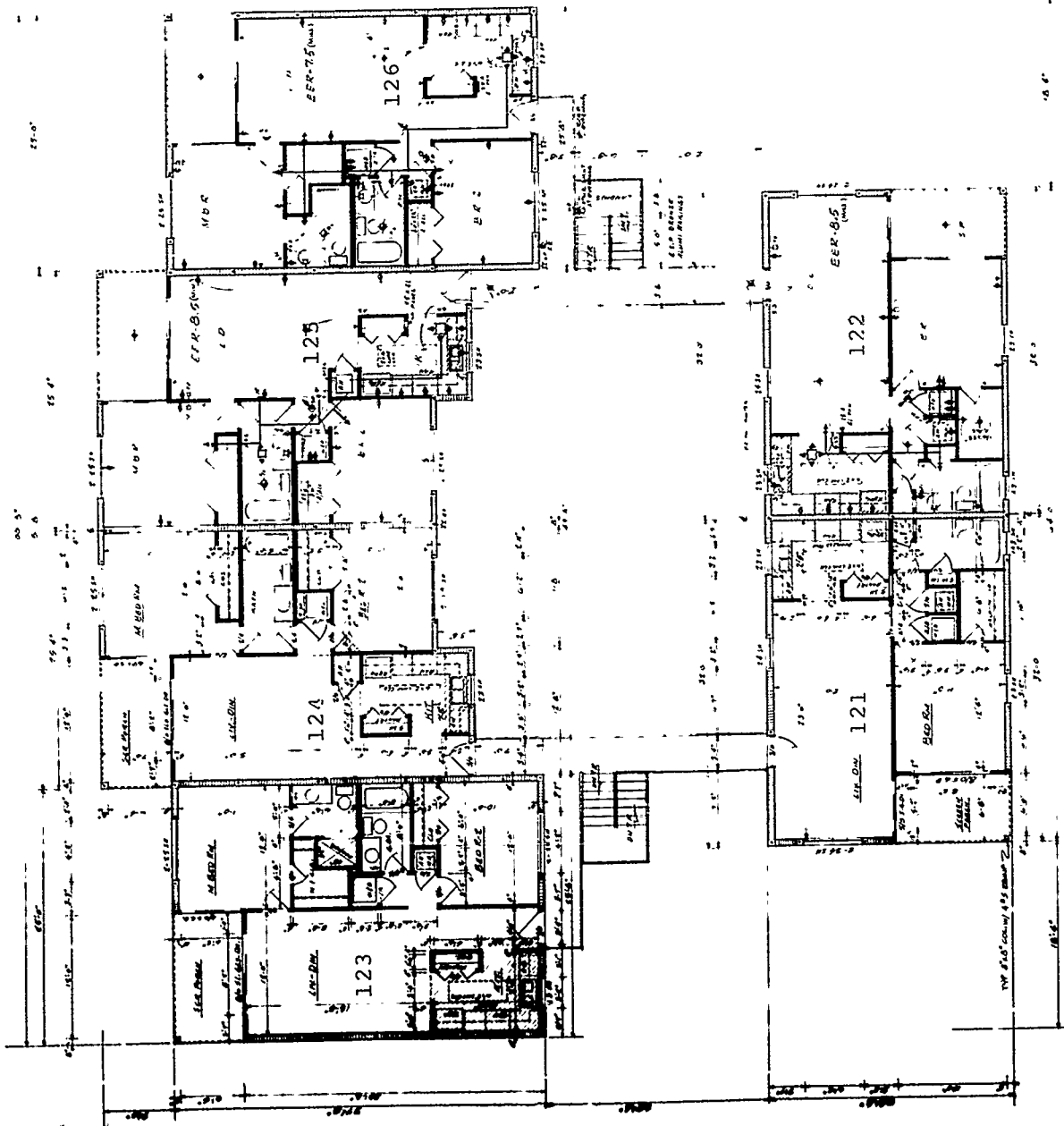
WFO 1580- 115  
 210



BUILDING 9  
 FIRST APARTMENT LEVEL

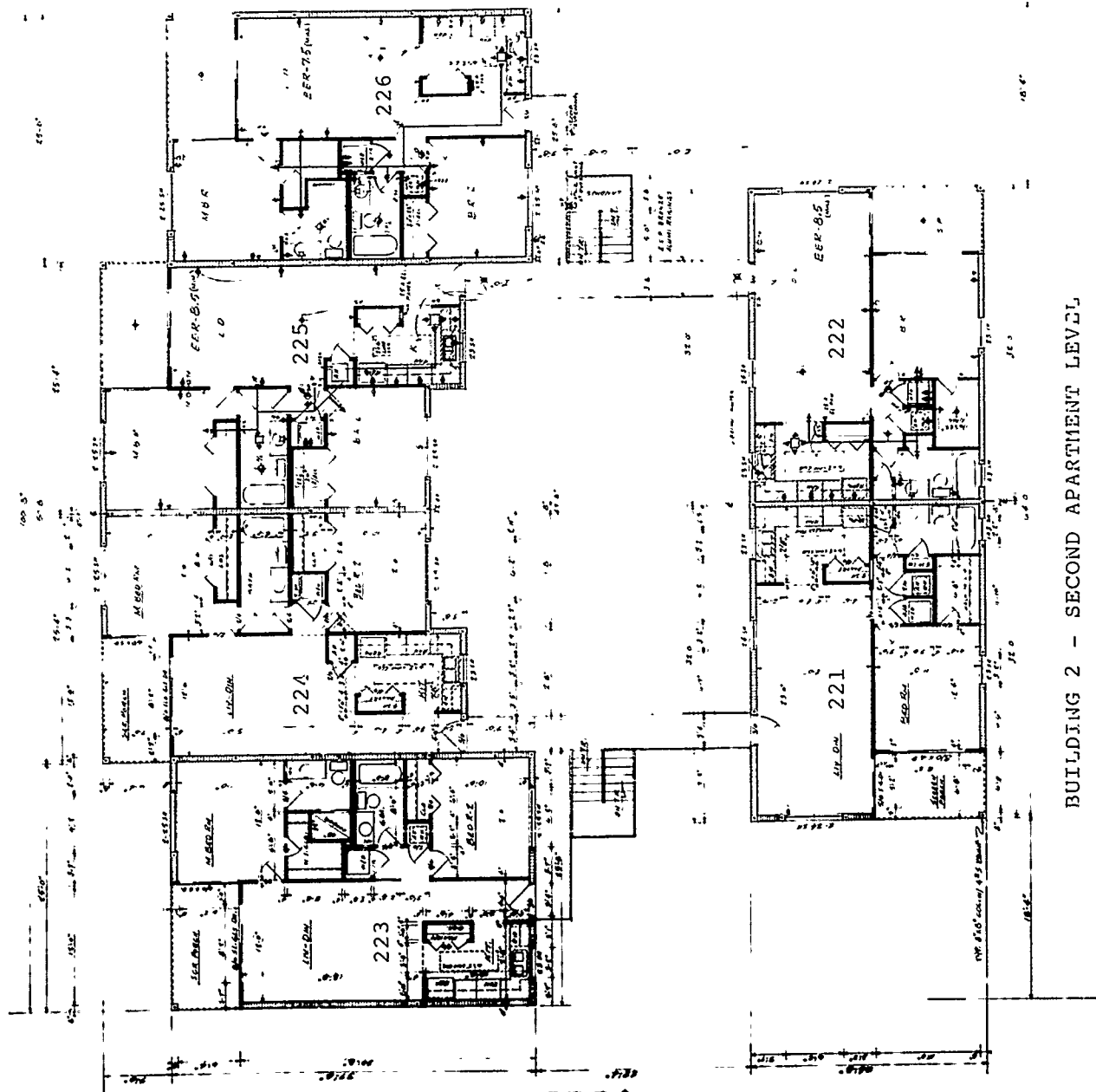
EXHIBIT "B"

1580 PC 116



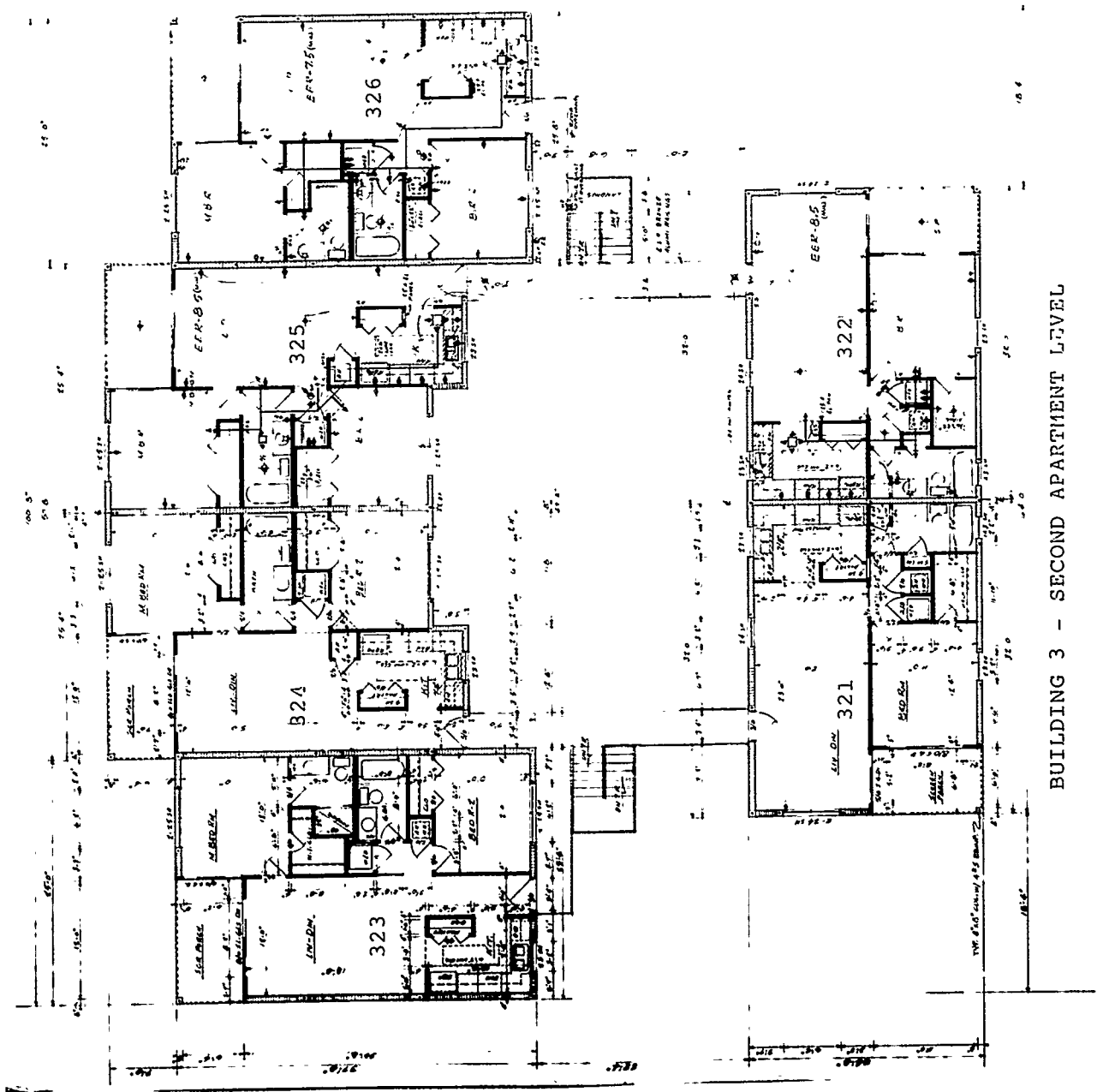
BUILDING 1  
SECOND APARTMENT LEVEL

1580 PC 117



BUILDING 2 - SECOND APARTMENT LEVEL

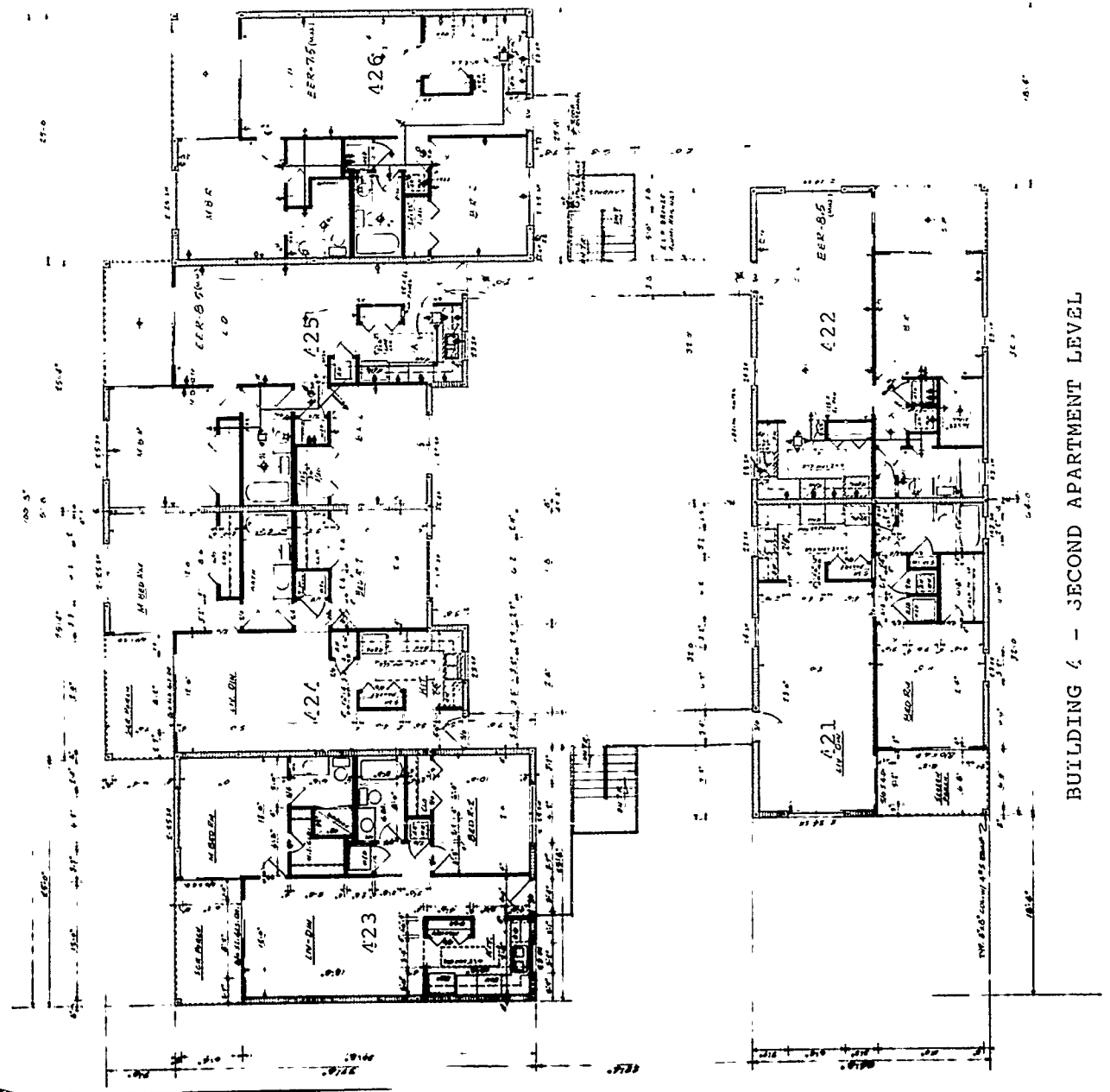
1580 PG 118



BUILDING 3 - SECOND APARTMENT LEVEL

EXHIBIT "B"

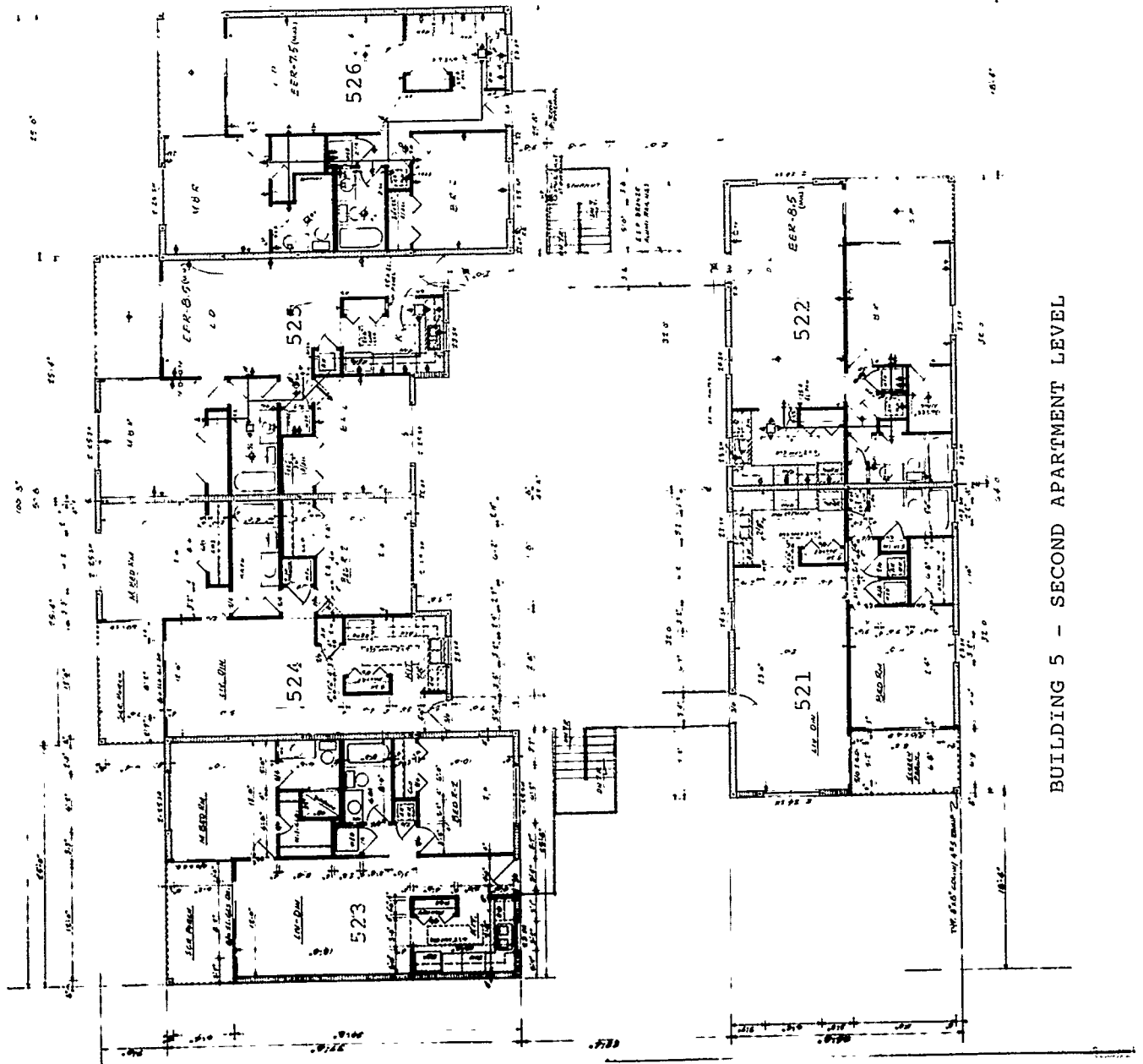
DEF 1580 PG 119



BUILDING 4 - SECOND APARTMENT LEVEL

EXHIBIT "B"

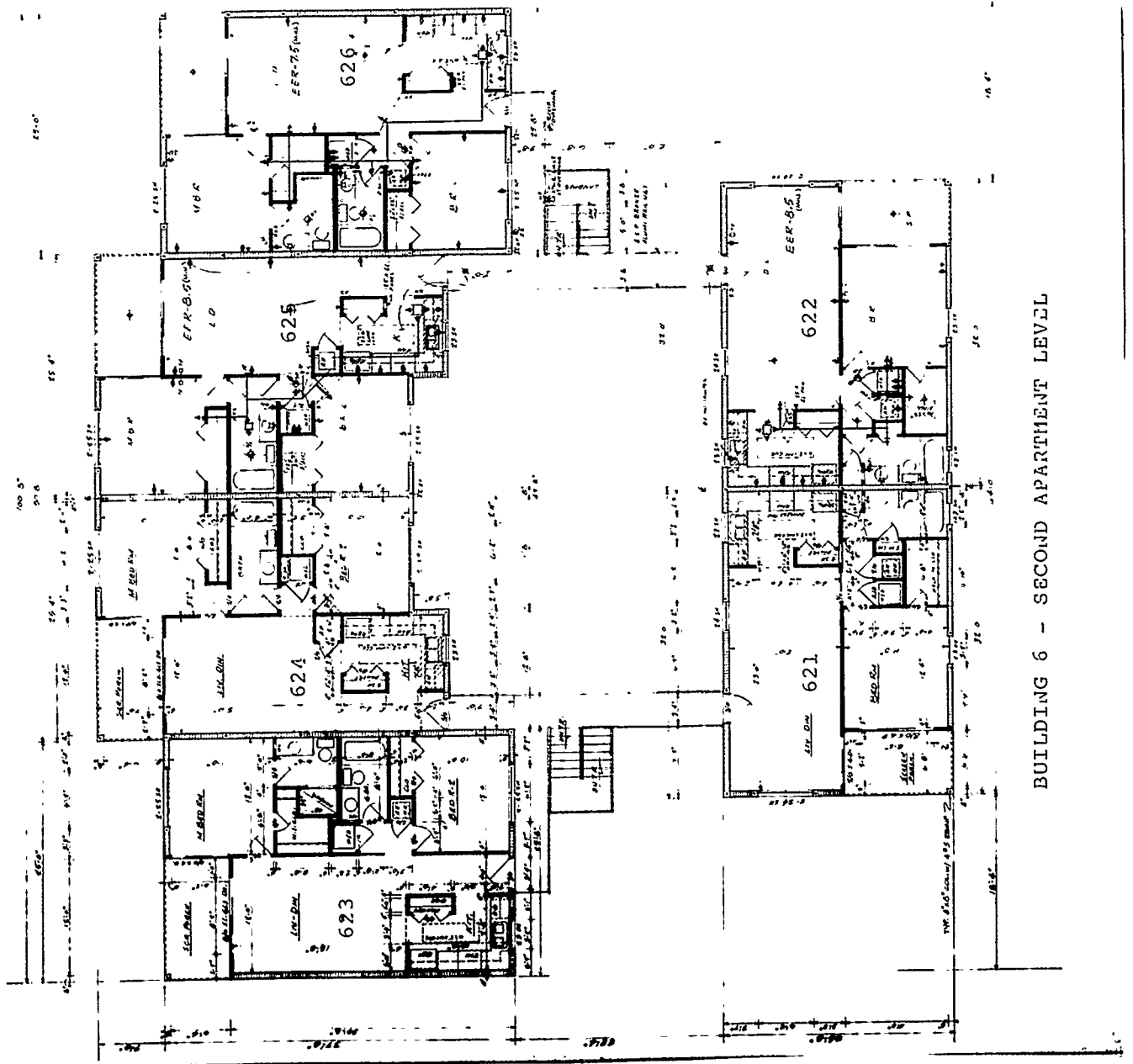
1580 PG 120



BUILDING 5 - SECOND APARTMENT LEVEL

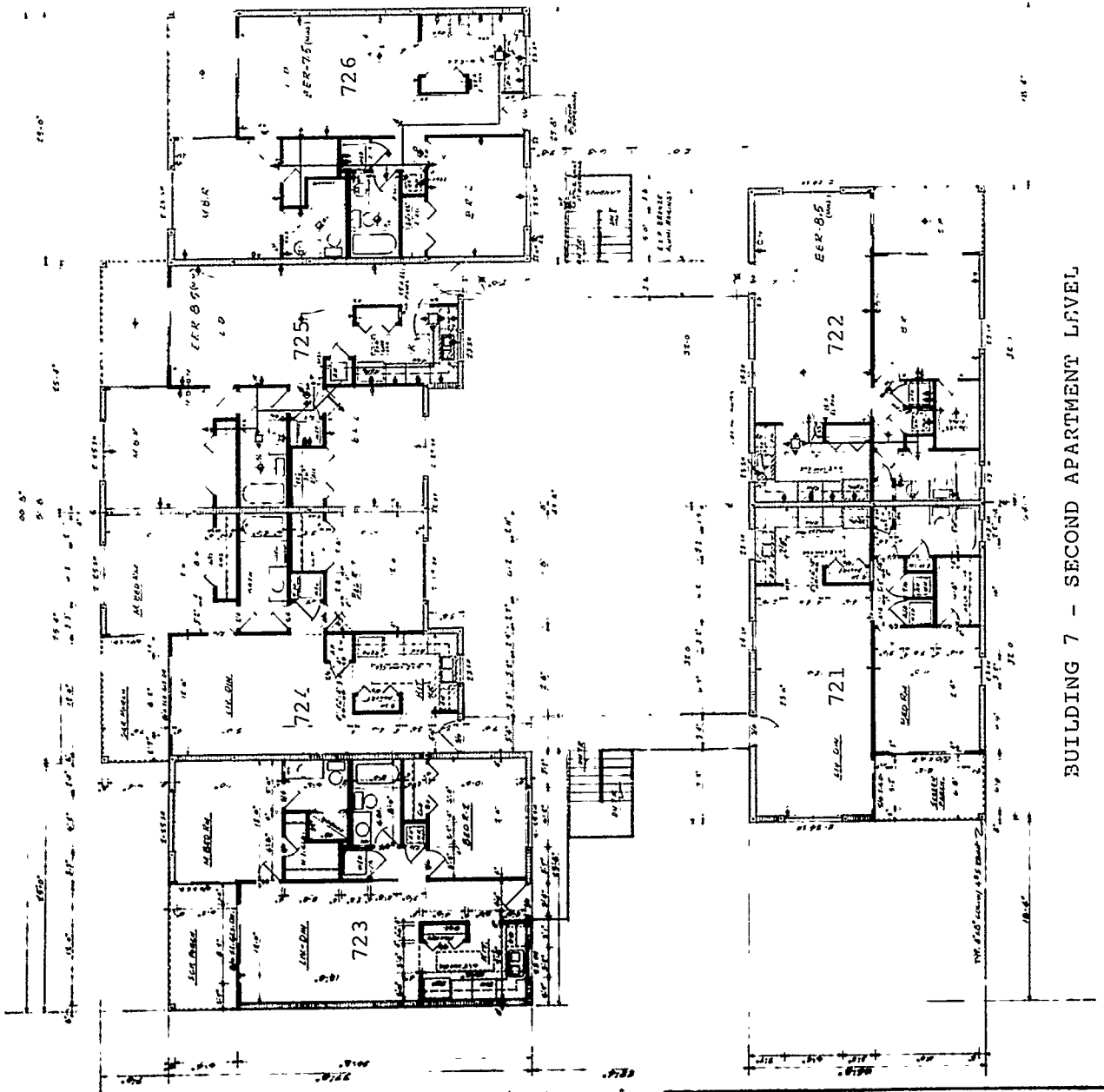
EXHIBIT "B"

DL 1580 PC 121



BUILDING 6 - SECOND APARTMENT LEVEL

REC 1580 PG 122

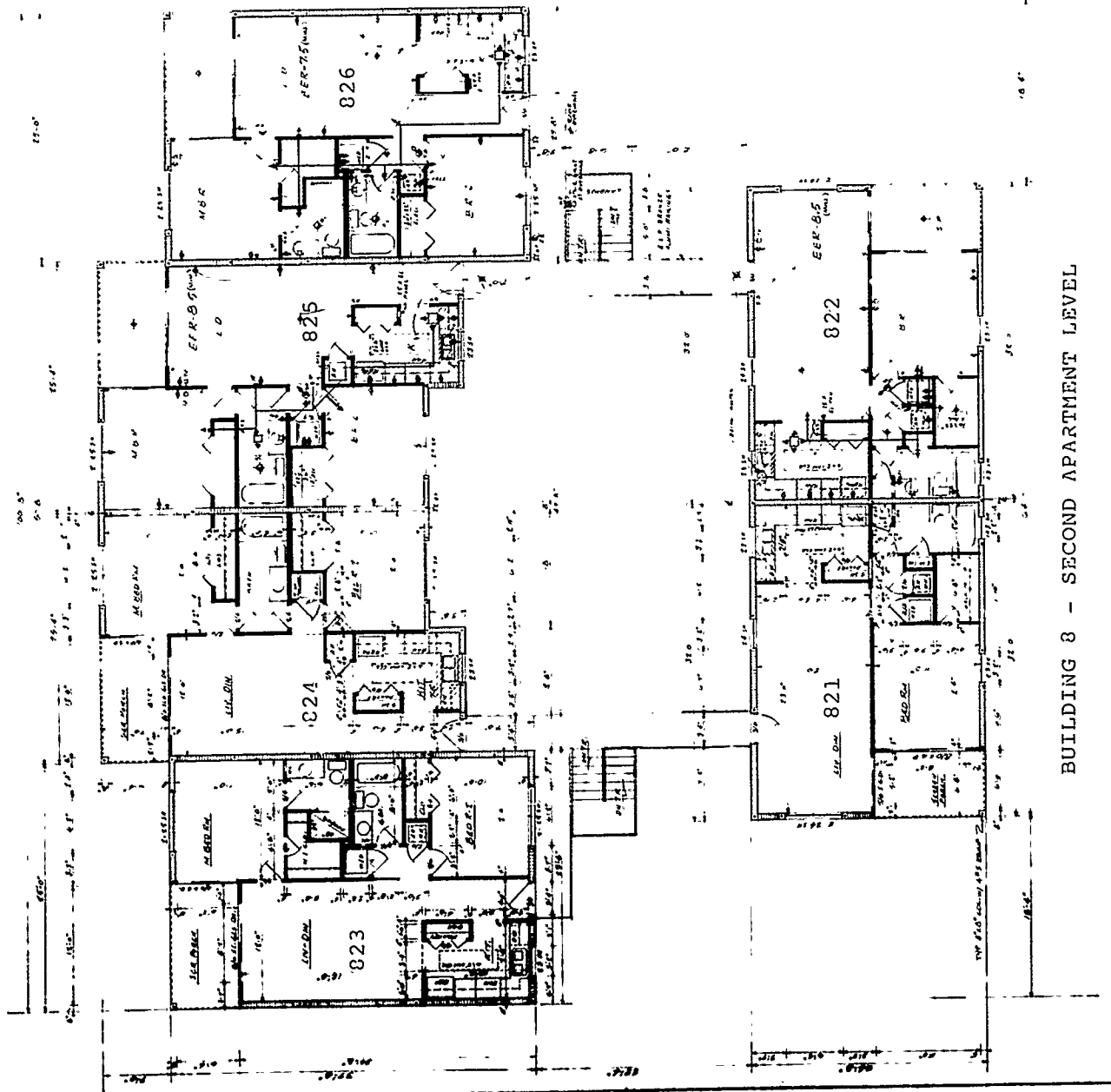


BUILDING 7 - SECOND APARTMENT LEVEL

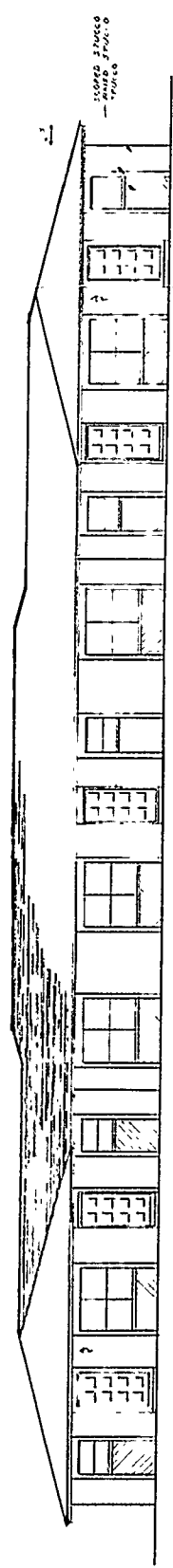


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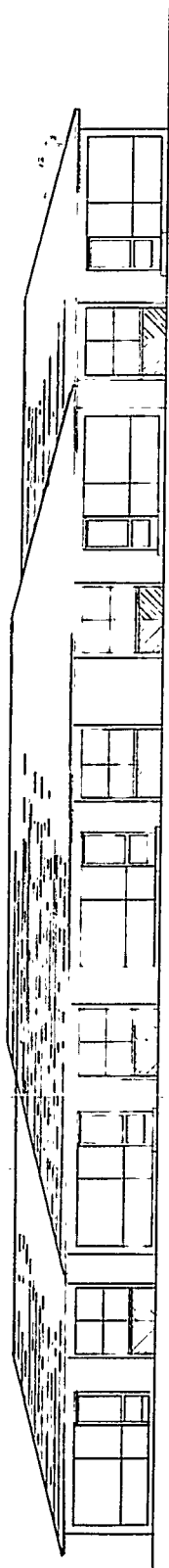
1580 PG 123



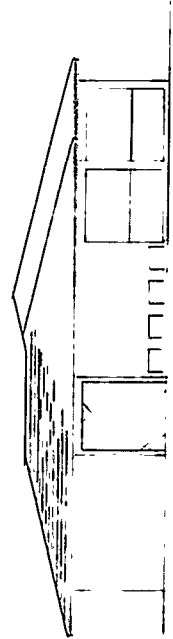
BUILDING 8 - SECOND APARTMENT LEVEL



5 UNIT FRONT ELEVATION 1/4" = 1'-0"



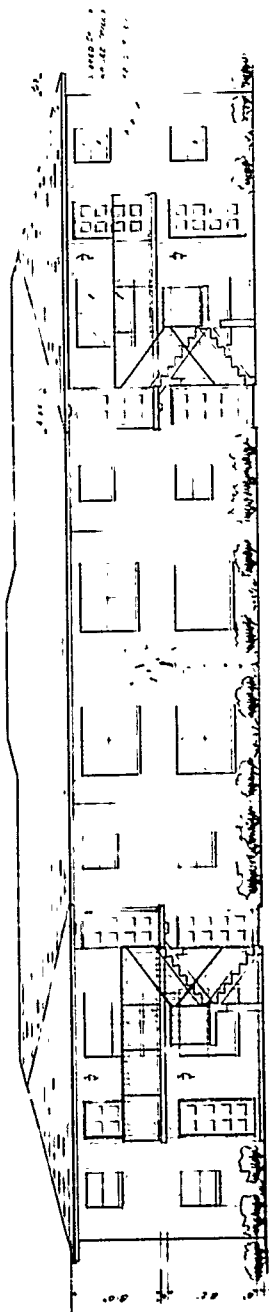
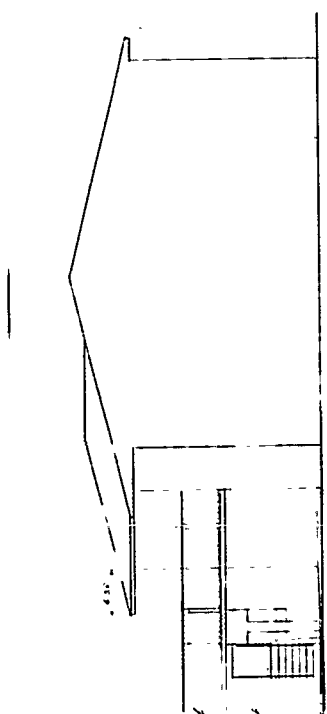
5 UNIT REAR ELEVATION 1/4" = 1'-0"



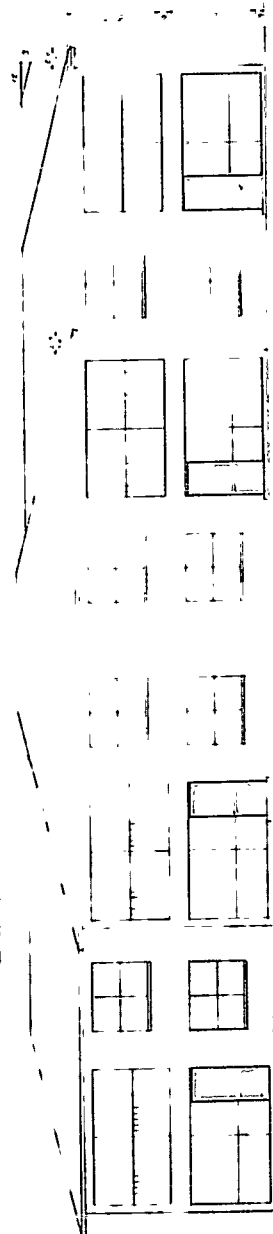
5 UNIT SIDE ELEVATION 1/4" = 1'-0" REVERSE FOR OPPOSITE VIEW

BUILDING NINE

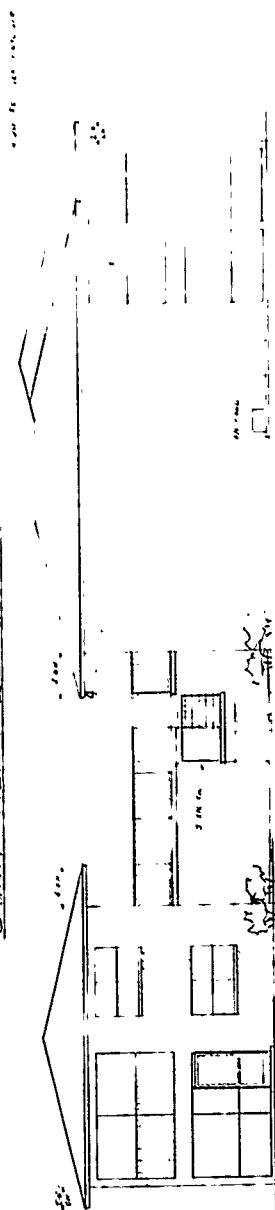
REC 1580 PG 125



8 UNIT FRONT ELEVATION 1/4" = 1'-0"



8 UNIT REAR ELEVATION 1/4" = 1'-0"



4 & 8 UNIT SIDE ELEVATION 1/4" = 1'-0" REVERSE FOR OPPOSITE VIEW

BUILDING ONE THROUGH EIGHT

CERTIFICATE OF THE SURVEYOR

I, WILLIAM E. BEAN, OF FORT MYERS, LEE COUNTY, FLORIDA,  
CERTIFY AS FOLLOWS:

1. I AM A SURVEYOR DULY LICENSED AND AUTHORIZED TO  
PRACTICE IN THE STATE OF FLORIDA.

2. THIS CERTIFICATE IS MADE AS TO DAVIS WOODS, A CON-  
DOMINIUM LOCATED AT DAVIS ROAD, LEE COUNTY, FLORIDA, AND IN  
COMPLIANCE WITH SECTION 718.104 (4) (E) FLORIDA STATUTES.

3. THAT THE CONSTRUCTION OF THE IMPROVEMENTS DESCRIBED  
FOR BUILDINGS 1, 6, 7 AND 8 AND THE TENNIS COURT AND SWIMMING  
POOL IS SUBSTANTIALLY COMPLETE SO THAT THE MATERIAL, TOGETHER  
WITH THE PROVISIONS OF THE DECLARATION DESCRIBING THE  
CONDOMINIUM PROPERTY, IS AN ACCURATE REPRESENTATION OF THE  
LOCATION AND DIMENSIONS OF THE IMPROVEMENTS, AND THAT THE  
IDENTIFICATION, LOCATION, AND DIMENSIONS OF THE COMMON  
ELEMENTS AND OF EACH UNIT IN SAID BUILDING CAN BE DETERMINED  
FROM THESE MATERIALS.

  
REGISTERED LAND SURVEYOR  
WILLIAM E. BEAN  
#3261

FORT MYERS, FLORIDA

DATE: FEB. 5, 1982

# State of Florida



Department of State

OFF REC 1580 PG 127

I certify that the attached is a true and correct copy of the Articles of Incorporation of DAVIS WOODS CONDOMINIUM ASSOCIATION, INC., a corporation not for profit organized under the Laws of the State of Florida, filed on October 22, 1981, as shown by the records of this office.

The charter number for this corporation is 760560.

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
26th day of October, 1981.



CER 101 Rev 12-80

*George Firestone*  
George Firestone  
Secretary of State

FILED  
OCT 22 2 03 PM '01  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

ARTICLES OF INCORPORATION

OF

DAVIS WOODS CONDOMINIUM ASSOCIATION, INC.

The undersigned by these Articles associate themselves for the purpose of forming a corporation not for profit under the laws of the state of Florida and certify as follows:

ARTICLE 1

REC 1580 PG 128

Name and Definitions

The name of the corporation shall be DAVIS WOODS CONDOMINIUM ASSOCIATION, INC. For convenience the corporation shall be referred to in this instrument as the Association, these Articles of Incorporation as Articles, and the By-Laws of the Association as By-Laws.

ARTICLE 2

Purpose

The purpose for which the Association is organized is to provide an entity pursuant to F.S. 718 for the operation of DAVIS WOODS CONDOMINIUM, a condominium located upon the following lands in Lee County, Florida:

A tract or parcel of land situated in the State of Florida, County of Lee, lying in Section 2, Township 46 South, Range 23 East and further bounded and described as follows:

Starting at the Northeast corner of the Southeast one quarter (SE $\frac{1}{4}$ ) of the Southwest one quarter (SW $\frac{1}{4}$ ) of said Section 2; thence S 00° 51' 12" E along the East line of said fraction 210.00 feet to the principal place of beginning; thence continuing S 00° 51' 12" E along said East line for 452.20 feet; thence S 89° 08' 48" W for 395.03 feet to a point on a curve concave to the West having a radius of 100.00 feet and to which point a radial line bears N 89° 00' 44" E; thence Southerly along said curve through a central angle of 27° 08' 44" for 47.38 feet to a point of reverse curve concave to the East having a radius of 100.00 feet; thence Southerly along said curve through a central angle of 27° 08' 44" for 47.38 feet; thence S 00° 59' 16" E for 49.62 feet; thence S 89° 00' 44" W for 210.00 feet; thence N 00° 59' 16" W along the Easterly right-of-way line of Davis Road (66.00 feet wide) for 592.85 feet; thence N 89° 04' 33" E for 628.12 feet to the principal place of beginning.

Powers

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

3.1. General. The Association shall have all of the common-law and statutory powers of a corporation not for profit under the Laws of Florida that are not in conflict with the terms of these Articles.

3.2. Enumeration. The Association shall have all of the powers and duties set forth in the Condominium Act and all of powers and duties reasonably necessary to operate the condominium as set forth in the Declaration and the said Association's Articles and By-Laws, and as they may be amended from time to time, said Condominium Act shall in the event of conflict supercede said Declaration, Articles and By-Laws.

- a. To make and collect assessments against members as unit owners to defray the costs, expenses and losses of the condominium.
- b. To use the proceeds of assessments and charges in the exercise of its powers and duties.
- c. To buy or lease both real and personal property for condominium use, and to sell or otherwise dispose of property so acquired.
- d. To maintain, repair, replace and operate the condominium property and property acquired or leased by the Association for use by unit owners.
- e. To purchase insurance upon the condominium property and insurance for the protection of the Association and its members as unit owners.
- f. To reconstruct and repair improvements after casualty and to construct additional improvements of the condominium property.
- g. To make and amend reasonable regulations respecting the use and appearance of the property in the condominium provided, however, that all those regulations and their amendments shall be approved by not less than 75% of the votes of entire membership of the Association before they shall become effective.
- h. To approve or disapprove the leasing, transfer, mortgaging, ownership and possession of units as may be provided by the Declaration of Condominium and the By-Laws.
- i. To endorse by Legal means the provisions of the Condominium Act, the Declaration of Condominium, these Articles, the By-Laws of the Association and the Regulations for the use of the property in the condominium.
- j. To contract for the management and maintenance of the Condominium and to authorize the management agent to assist the Association in carrying out its powers and duties by performing such functions as the collection of assessments, preparation of records, enforcement of rules, and maintenance of the common elements. The Association shall, however, retain at all times the powers and duties

granted them by the Condominium Act, including, but not limited to, the making of assessments, promulgation of rules, and execution of contracts on behalf of the Association.

k. To contract for the management or operation of portions of the common elements susceptible to separate management or operation, and to grant leases of those portions for this purpose.

l. To employ personnel to perform the services required for proper operation of the condominium.

3.3. Condominium property. All funds and the titles of all properties acquired by the Association and their proceeds shall be held in trust for the members in accordance with the provisions of the Declaration of Condominium, these Articles of Incorporation and the By-Laws.

3.4. Distribution of income. The Association shall make no distribution of income to its members, directors or officers.

3.5. Limitation. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration of Condominium and the By-Laws.

#### ARTICLE 4

##### Members

4.1. Membership. The members of the Association shall consist of all of the record owners of units in the condominium, and after termination of the condominium shall consist of those who are members at the time of the termination and their successors and assigns.

4.2. Evidence. After approval of the transfer, or of the ownership, of a unit in the manner required by the Declaration of Condominium, change of membership in the Association shall be established by (a) recording in the public records of Lee County, Florida a certificate of the Association stating the approval required by the Declaration, (b) recording in the public records of Lee County, Florida, a deed or other instrument establishing a public record of the transfer of the title substantiating the membership, and (c) delivery to the Association of a certified copy of the recorded instruments. The owner receiving title of the unit by those instruments will be a member of the Association and the membership of the prior owner will be terminated.

4.3. Assignment. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the unit for which that share is held.

4.4. Voting. A member of the Association owning a two bedroom unit shall be entitled to two votes for each such unit owned and a member owning a one bedroom unit shall be entitled to one vote for each such unit owned. The manner of exercising voting rights shall be determined by the By-Laws of the Association.

#### ARTICLE 5

##### Directors



5.1 Number and qualification. The affairs of the Association shall be managed by a board consisting of the number of Directors determined by the By-Laws, but not less than three Directors, and in the absence of that determination shall consist of three directors.

5.2 Duties and powers. All of the duties and powers of the Association existing under the Condominium Act, Declaration of Condominium, these Articles and By-Laws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by unit owners when that is specifically required.

5.3. Election; removal. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by the By-Laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.

5.4. Term of first directors. The directors named in these Articles shall serve until their successors are elected by the members other than the Developer; and any vacancies in their number occurring before the time for the election of their successors by the members other than the Developer, shall be filled by the remaining first directors or if there are none, then by the Developer.

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

NAME

ROBERT R. HOLLÓPETER	Rt. 24 Box 101-A Ft. Myers, Florida 33907	President and Director
DAVID G. THOMPSON	Rt. 24 Box 101-A Ft. Myers, Florida 33907	Vice President and Assistant Secretary
DOROTHEA HOLLOPETER	Rt. 24 Box 101-A Ft. Myers, Florida 33907	Secretary- Treasurer

ARTICLE 6

Officers

The affairs of the Association shall be administered by the officers designated in the By-Laws. The officers shall be elected by the Board of Directors at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board of Directors. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:

President	ROBERT R. HOLLOPETER	Rt. 24 Box 101-A Ft. Myers, Fla. 33907
Vice President and Assistant Secretary	DAVID G. THOMPSON	Rt. 24 Box 101-A Ft. Myers, Fla. 33907
Secretary - Treasurer	DOROTHEA HOLLOPETER	Rt. 24 Box 101-A Ft. Myers, Fla. 33907

Indemnification

Every director and officer of the Association, and every member of the Association serving the Association at its request, shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement of any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or officer of the Association or by reason of his serving or having served the Association, at its request, whether or not he is a director or officer or is serving at the time the expenses or liabilities are incurred; provided that in the event of a settlement before entry of judgment, and also when the person concerned is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, the indemnification shall apply only when the Board of Directors approved the settlement and reimbursement as being for the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which that person may be entitled.

## ARTICLE 8

By-Laws

The first By-Laws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded by the Directors and members in the manner provided by the By-Laws.

## ARTICLE 9

Amendments

Amendments to these Articles of Incorporation shall be proposed and adopted in the following manner:

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

9.2. Adoption. A resolution for the adoption of a proposed amendment may be proposed either by the Board of Directors or by the members 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, providing the approval is delivered to the secretary at or prior to the meeting. The approvals must be either:

a. by not less than 75% of the entire membership of the Board of Directors and by not less than 75% of the votes of the entire membership of the Association; or

b. by not less than 80% of the votes of the entire membership of the Association.

9.3. Limitation. Provided, however, that no amendment shall make any changes in qualifications for membership nor in the voting rights or property rights of members, nor any change in 3.3. to 3.5. of Article 3, entitled "Powers" without approval in writing by all members and joinder of all record owners of mortgages upon units. No amendment shall be made that is in conflict with the Condominium Act or the Declaration of Condominium.

9.4. Recording. A copy of each amendment shall be accepted and certified by the Secretary of State and be recorded in public records of Lee County, Florida.

ARTICLE 10

OFF REC 1580 PG 133

Term

The term of the Association shall be perpetual.

ARTICLE 11

Subscribers

The names and addresses of the subscribers to these Articles of Incorporation are as follows:

ROBERT R. HOLLOPETER Rt. 24 Box 101-A  
Ft. Myers, Florida 33907

DAVID G. THOMPSON Rt. 24 Box 101-A  
Ft. Myers, Florida 33907

DOROTHEA HOLLOPETER Rt. 24 Box 101-A  
Ft. Myers, Florida 33907

IN WITNESS WHEREOF the subscribers have affixed their signatures this date OCT 14, 1981

*Robert R. Hollopeter*  
*David G. Thompson*  
*Dorothea J. Hollopeter*

ARTICLE 12

The street address of the initial registered office of this Corporation is Davis Road, Fort Myers, Florida 33908, and the name of the initial registered agent of this Corporation is DAVID G. THOMPSON, Rt. 24 Box 101-A, Ft. Myers, Florida 33907.

STATE OF FLORIDA

COUNTY OF LEE

Robert R. Hollopeter, David G. Thompson and Dorothea Hollopeter, appeared before me, and after being duly sworn, they acknowledged that they executed the foregoing Articles of Incorporation for the purposes express in the Articles on this date, OCT 14, 1981.

*Quinn E. Metz*  
Notary Public  
State of Florida at Large

My Commission Expires:

Notary Public, State of Florida at Large  
My commission expires January 3, 1984

FILED  
OCT 22 2 08 PM '81  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

OFF REC 1580 PG 134

David G. Thompson, being designated as resident agent of the foregoing Corporation does, by this instrument, herewith accept such designation and responsibilities therein assigned.

  
David G. Thompson

EXHIBIT "F"

BY-LAWS

OFF REC. 1580 PG 135

OF

DAVIS WOODS CONDOMINIUM ASSOCIATION, INC.

ARTICLE I: NAME AND LOCATION

SECTION 1: The name of this Association shall be DAVIS WOODS CONDOMINIUM ASSOCIATION, INC.

SECTION 2: The principal office of this Association shall be Davis Road, Fort Myers, Florida 33908.

SECTION 3: Other offices for the transaction of business shall be located at such places as the Board of Directors may from time to time determine.

ARTICLE II: MEMBERS OF THE ASSOCIATION

SECTION 1: The members of the Association shall be as defined and designated in the Declaration of Condominium of which these By-Laws form a part, together constituting the Condominium documents.

SECTION 2: An annual meeting of the Association members shall be held at 8:30 p.m. on the third Monday in January of each year, said meeting to be held at the principal office of the Association or at such place, either on the condominium property or elsewhere, as may be described in the notice of such meeting. At such meeting, the Association members shall elect Directors to serve until their successors shall be elected and qualified.

SECTION 3: Any special meeting, except as provided in Section 10 and in Article V, Section I, of the Association to be held at the place designated by such notice thereof may be called at any time by the President or, in his absence, a Vice-President, or a majority of the Directors. It shall be the duty of the Directors, the President or a Vice-President to call such a meeting whenever so requested by the Association members constituting more than twenty percent (20%) of the Association voting membership.

SECTION 4: Written notice of the time and place of the annual meeting and special meetings shall be mailed by Certified United States mail by the Secretary to each Association member or, in the case of a husband and wife, the same may be addressed by one notice addressed to both of them, not less than fourteen (14) days before the date of such meeting, and shall be posted in a conspicuous place on the condominium property.

SECTION 5: Annual or special meetings of the Association: Written notice shall be given to each unit owner and shall be posted in a conspicuous place on the condominium property at least fourteen (14) days prior to the annual meeting. Unless a unit owner waives in writing the right to receive notice of the annual meeting by mail, the notice of the annual meeting shall be sent by mail to each unit owner, and the post office certificate of mailing shall be retained as proof of such

mailing. Unit owners may waive notice of specific meetings and may take action by written agreement without meetings if allowed by the By-Laws, the Declaration of Condominium, or any Florida statute.

SECTION 6: At any meeting of the Association, an Association member shall be entitled to vote and the weight of his, her or their vote shall be the same as the percentage ownership in the condominium building or buildings as may be subsequently amended and as provided in the Declaration of Condominium.

SECTION 7: Proxies shall be allowed, but must be in writing, and shall be filed with the Secretary and by him entered and recorded in the minutes of the meeting. Provided, however, that no one person shall hold more than five (5) proxies for any purpose.

SECTION 8: Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the unit owner exscuting it.

SECTION 9: A quorum for the transaction of business at any Association meeting shall constitute the number of members representing a majority of the then outstanding voting shares, and the Association members present at any meeting with less than a quorum may adjourn the meeting to a future time.

SECTION 10: Any member of the Board of Directors may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all unit owners. A special meeting of the unit owners to recall a member or members of the Board of Directors may be called by ten (10) percent of the unit owners giving notice of the meeting as required for a meeting of unit owners and the notice shall state the purpose of the meeting.

ARTICLE III:      ADMINISTRATION AND MANAGEMENT OF CONDOMINIUM - BOARD OF DIRECTORS.

SECTION 1: The administration and management of the condominium property as the same relates to the common elements and the providing of utilities as may be designated shall be vested in the Condominium Association and through the Board of Directors. The Association shall maintain an assessment roll and shall maintain such accounts and records as are necessary and prudent in accordance with good business standards. The Association, through its officers and administrators, shall have the powers, authorities and responsibilities as are vested in the officers and directors of a corporation not for profit under the laws of the State of Florida.

SECTION 2: The business, property of the Association, the common elements, and all assessments and generally the management and control of the Association and property owned by it, shall be conducted and managed by a Board of Directors of not less than three (3), nor more than five (5) Directors, who shall be elected by the Association members.

SECTION 3: An annual meeting of the Board of Directors may be held in the principal office of the Association immediately after the adjournment of the annual Association meeting.

SECTION 4: Special meetings of the Board of Directors

shall be held in the principal office of the Association or at such other place or places within or without the condominium property as a majority of the Directors shall from time to time designate.

SECTION 5: Notice of all annual and special meetings shall be mailed by United States mail to each Director by the Secretary at least fourteen (14) days previous to the time fixed for the meeting. All notices of special meetings shall state the purpose thereof.

SECTION 6: Meetings of the Board of Directors shall be open to all apartment owners, and notices of meetings shall be posted conspicuously on the condominium property, 48 hours in advance for the attention of all apartment owners, except in an emergency.

SECTION 7: A majority of the Board of Directors for the transaction of business at any annual or special meeting shall be necessary to constitute a quorum and the act of a majority of the administrators present at any such meeting at which a quorum is present shall be the act of the Board of Directors.

SECTION 8: The Board of Directors shall elect the officers of the Association and fix their salaries, if any. Such election may be held at the Board of Directors meeting following the annual Association meeting. An officer may be removed at any time by a majority vote of the Board of Directors.

SECTION 9: Vacancies in the Board of Directors may be filled by the remaining members of the Board at any regular or special meeting.

SECTION 10: At each annual meeting of the Association, the Directors shall submit a report to the Association of the business transacted during the preceding year, together with a report of the general financial condition of the Association.

SECTION 11: Members of the Board of Directors shall be elected for a term of two (2) years, and any member of said Board may be reelected for additional terms provided, however, that the first Board of Directors may be comprised of members with staggered terms with one-third of the membership elected for a term of three (3) years.

SECTION 12: In addition to the foregoing powers and authorities, the Directors shall have the power and duty to make and collect assessments against members of the Association to defray the costs of maintaining the Condominium, to maintain, repair and replace Condominium property, to make and amend regulations respecting the use of the property of the Condominium.

SECTION 13: The Board of Directors may, at its election, name from its members not less than three (3) persons to act as an Executive Committee to handle the day to day affairs of the Association.

SECTION 14: The Board of Directors shall adopt a budget for each fiscal year and the same shall contain estimates of costs for performing the various matters and functions of the Association. Copies of the proposed budget and assessments shall be mailed to each unit owner not less than thirty (30) days prior to the annual meeting.

SECTION 15: With sixty (60) days following the end of the fiscal or calendar year or annually on such date as is otherwise provided in the By-Laws of the Association, the Board of Administration of the Association shall mail or furnish by personal delivery to each unit owner a complete

financial report of actual receipts and expenditures for the previous twelve (12) months. The report shall show the amounts of receipts by accounts and receipt classifications and shall show the amounts of expenses by accounts and expense classifications including, if applicable, but not limited to the following:

- (a) Cost of security.
- (b) Professional and management fees and expenses.
- (c) Taxes.
- (d) Cost for recreation facilities.
- (e) Expenses for refuse collection and utility services.
- (f) Expenses for lawn care.
- (g) Cost for building maintenance and repair.
- (h) Insurance costs.
- (i) Administrative and salary expenses.
- (j) General reserves, maintenances, reserves, and depreciation reserves.

SECTION 16: The Board of Directors shall deposit the funds of the Association in such bank or banks as they may from time to time direct and withdrawal of such funds, shall be by such person or persons as the Board of Directors may direct.

SECTION 17: The Association members may direct any officer or administrator of the Association to provide fidelity bonds in such amount as may be directed.

SECTION 18: The Board of Directors may make such rules and regulations governing use of Condominium property they may deem proper.

SECTION 19: The Board of Directors may employ such agents or parties as it may deem necessary to assist it in the administration and management of the Association.

SECTION 20: The minutes of all meetings of unit owners and the Board of Directors shall be kept in a book available for inspection by unit owners, or their authorized representatives, and Board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years.

#### ARTICLE IV: OFFICERS.

SECTION 1: The Association shall have a President, a Vice-President, a Secretary and a Treasurer. The offices of Secretary and Treasurer may be held by the same person. They shall be chosen by the Board of Directors and shall hold their offices from year to year and shall be elected or reelected at the annual meeting of the Association. The Association may also have more than one (1) Vice-President, Assistant Secretaries or Assistant Treasurers and such other officers and agents as may be deemed necessary. The President, Secretary and the Treasurer must also be Directors.

SECTION 2: The President, or in his absence the Vice-President of the Association shall preside at all meetings of the Board of Directors and Association meetings. The President



shall have general supervision over the affairs of the Association and over other officers and in his absence, those duties shall be performed by the Vice-President.

SECTION 3: The Secretary shall issue all notices of meetings of the Board of Directors and Association meetings and shall attend and keep the minutes of the same. He shall have charge of the Association records and papers and shall perform all other duties normally incident to such office. In the absence of the Secretary, his duties may be performed by an Assistant Secretary.

SECTION 4: Each of the officers above described shall, in addition to the powers and duties conferred upon them herein, have all the powers, authorities and responsibilities as are designated to officers of a corporation not for profit and the laws of the State of Florida.

ARTICLE V: MANNER OF COLLECTING COMMON EXPENSES FROM UNIT OWNERS.

SECTION 1: Assessments for Common Expenses and Annual Budget. Assessments for recurring common expenses shall be made for the calendar year annually in advance on or before December 20th preceeding the year for which the assessments are made. Such assessments shall be due in twelve (12) equal consecutive monthly installments on the first day of each month of the year for which the assessments are made. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment and monthly installments thereon shall be due upon each installment payment date until changed by a new assessment. Thirty (30) days prior to the meeting at which the annual budget will be considered by the Board of Directors, a copy of said annual budget proposed for adoption together with a written notice of the time and place for the meeting at which the adoption of such budget shall be considered, shall be mailed to each unit owner at their place of residence. The meeting of the Board of Directors during which said annual budget shall be considered shall be open to the attendance of all unit owners. If the annual budget as adopted by the Board of Directors requires assessment against the unit owners for the fiscal year or calendar year of the budget, as the case may be, exceeding 115% of such assessments for the preceeding fiscal year or calendar year, then upon written application of 10% of the unit owners delivered to the Board of Directors, a special meeting of unit owners shall be held upon not less than ten (10) days written notice to each unit owner, but not later than thirty (30) days after the delivery of same to the Board of Directors or any member thereof and unit owners at said special meeting may consider and enact a revision of the annual budget. The adoption of the budget shall require a vote of not less than a majority vote of all unit owners. Notwithstanding the foregoing, the Board of Directors may elect to propose the annual budget to the unit owners at a meeting of members or by written notification of said proposal to each of the unit owners and if such proposed annual budget shall be approved by the unit owners at such meeting or by a majority of the entire membership in writing, the budget shall be adopted. In determining whether assessments exceed 115% of similar assessments in prior years, there shall be excluded in the computation any provision for reasonable reserves made by the Board of Directors in respect of repair or replacement of the condominium property or in respect of anticipated expenses by the condominium association which are not anticipated to be incurred on a regular or annual basis and there shall be excluded from such computation, assessment and reserves for betterments to the condominium property as may be imposed by the Board of Directors. Provided, however, that so long as the Developer is in control of the Board of Directors, the

Board shall not impose an assessment for a year greater than 115% of the prior fiscal or calendar year's assessment without approval of a majority of the unit owners.

Notice of any meeting where assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but not be limited to roof replacement, building, painting and pavement resurfacing. The amount to be reserved shall be computed by means of a formula which is based upon estimated life and estimated replacement cost of each reserve item.

SECTION 2: Acceleration of Assessment Installments Upon Default. If an apartment owner shall be in default in the payment of an installment upon an assessment, the Board of Directors may accelerate the remaining installments of the assessment upon notice thereof to the apartment owner, and thereupon the unpaid balance of the assessment shall come due upon the date stated in the notice, but not less than ten (10) days after the delivery thereof to the apartment owner, or not less than twenty (20) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.

SECTION 3: Continued Default. If unpaid for more than twenty (20) days after mailing of notice provided in Section 2 of this Article, such amount shall accrue interest thereupon at the rate of ten (10) percent per annum until paid. In addition, the Association may, at its election, file an action in the same manner and in the same form as if the Association were a landlord, and the apartment owner were a tenant in default of payment of rent, and in such event, the Association may have the apartment owner removed from the premises by Process of Law as provided therein and, in such event, the apartment owner shall not be repossessed of the property until payment in full of the assessment of the property as accelerated or such other arrangement as the said apartment owner may make with the Board of Directors. In addition, the Board of Directors may have such other actions or rights as the law may provide and grant for such default. The delinquent apartment owner shall be liable for all expenses and attorneys fees the Association incurs in connection with the collection of a delinquent assessment.

SECTION 4: Assessments for Emergencies. Assessments for common expenses of emergencies which cannot be paid from the assessments for recurring expenses shall be made only after notice of the need therefor to the apartment owners concerned. After such notice, and upon approval in writing of more than one-half (1/2) of such apartment owners concerned, the assessment shall become effective, and it shall be due after thirty (30) days' notice thereof in such manner as the Board of Directors of the Association may require.

#### ARTICLE VI: AMENDMENT OF BY-LAWS.

The By-Laws of the Association may be amended by a vote of not less than two-thirds (2/3) of the then voting shares of the Association at any annual or special meeting, provided, however, that any such amendment to the Declaration shall not become effective unless the said amendment shall be set forth within or next to a duly recorded amendment to the Declaration. No By-Laws shall be revised or amended by reference to its title or number only; the full text of the By-Law to be revised shall appear in said amendment. An otherwise properly promulgated amendment shall not be invalidated by non-material errors or omissions in the By-Law process.

ARTICLE VII: RIGHTS OF THE DEVELOPER.

The Developer shall appoint the first Directors of the Association to serve, and in the event of vacancies, the remaining Directors shall fill the vacancies, and if there are no remaining Directors, the vacancies shall be filled by the Developer. Within sixty (60) days after the unit owners other than the Developer are entitled to elect a member or members of the Board of Administration of an association, the association shall call and give not less than thirty (30) days or more than forty (40) days notice of a meeting of the unit owners to elect the members of the Board of Administration. The meeting may be called and the notice given by any unit owner if the association fails to do so.

The initial Directors, and the office each holds, are as follows:

NAME

ROBERT R. HOLLOPETER	Rt. 24 Box 101-A Ft. Myers, Florida 33907	President and Director
DAVID G. THOMPSON	Rt. 24 Box 101-A Ft. Myers, Florida 33907	Vice-President and Director
DOROTHEA HOLLOPETER	Rt. 24 Box 101-A Ft. Myers, Florida 33907	Secretary - Treasurer and Director

CONSENT OF MORTGAGE

FILED 15807 PS 142  
REC.

COMES NOW, Lee County Bank, a banking corporation, holder of that certain mortgage given by OUTER ISLAND DEVELOPMENT OF FLORIDA, INC., a Florida Corporation, dated September 28, 1981 and recorded in O. R. Book 1547, at Page 1753, of the Public Records of Lee County, Florida, and consents to submitting the land described in the foregoing Condominium Declaration of DAVIS WOODS CONDOMINIUM, a Condominium, to Condominium ownership in the manner and form set forth therein.

IN WITNESS WHEREOF, the said Mortgagee hereunto sets his hand and seal this 4 day of FEBRUARY, 1982.

Yvonne M. Hurt  
Gene Davis

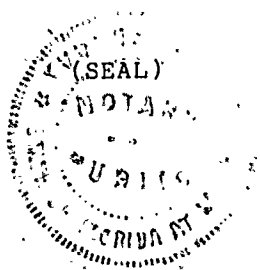
LEE COUNTY BANK

By: [Signature]  
Leo R. Doerr  
Senior Vice President

STATE OF FLORIDA )  
COUNTY OF LEE )

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, LEO DOERR, to me well known and known to me to be the individual described in and who executed the foregoing Consent of Mortgagee, and he acknowledged before me that he executed the same freely and voluntarily for the purpose therein expressed.

WITNESS my hand and official seal at Fort Myers, County of Lee, and State of Florida, this 4 day of FEBRUARY, 1982.



Yvonne M. Hurt  
NOTARY PUBLIC

My Commission expires:

NOTARY PUBLIC, STATE OF FLORIDA AT LARGE  
MY COMMISSION EXPIRES FEB. 25, 1984

RECORD  
LEE COUNTY, FLORIDA  
RECORD VERIFIED  
FEB 8 1 03 PM '82  
CLERK OF CIRCUIT COURT