

Rainberry Lake Homeowners Association, Inc.

Delray Beach, Florida

SR 107918

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DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTSFORRAINBERRY LAKE HOMES

THIS DECLARATION is made this <sup>30<sup>th</sup></sup> day of <sup>October</sup> 1979, by CAROLE SIEMENS, as Trustee, MELVIN I. MUROFF, as Trustee, and RSM DEVELOPERS & ASSOCIATES, LTD., which declares that the real property described in Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

## ARTICLE I

DEFINITIONS

The following words, when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Homes Association" shall mean and refer to the RAINBERRY LAKE HOMEOWNERS ASSOCIATION, INC., a Florida Corporation not-for-profit, which is to be incorporated.
- (b) "The Properties" shall mean and refer to the property described on Schedule "A".
- (c) "Lot" shall mean and refer to any lot within The Properties and any lot shown upon any resubdivision of such property.
- (d) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon The Properties.
- (e) "Member" shall mean and refer to all those Owners who are members of the Homes Association as provided in Article III, Section 1 hereof.
- (f) "Developer" shall mean and refer to RSM DEVELOPERS & ASSOCIATES, LTD., a Florida limited partnership, together with its respective successors and assigns.
- (g) "Common Areas" shall mean and refer to Recreation Tracts described on Schedule C, as well as the lake, canal, open space, offstreet parking areas, private streets, sidewalks, right-of-way and entrance features, but excluding any public utility installations thereon.

## ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Section 1. LEGAL DESCRIPTION. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the City of Delray Beach, Palm Beach County, Florida and is more particularly described as follows:

(See Schedule "A" attached hereto)

This instrument prepared by: Stanley M. Katz, Esq.  
711 N.W. 25th Avenue  
Delray Beach, Florida 33445

WILL CALL - BROAD AND CASSEL (371)  
110 East Atlantic Avenue  
Delray Beach, Florida 33444

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Section 2. USE OF LAKE AND CANALS IN COMMON WITH OTHERS.  
A portion of the Common Areas is a part of the Lake sometimes known as Rainberry Lake. Attached to this Declaration, as Exhibit I is a DECLARATION OF USE AND OBLIGATIONS OF RAINBERRY LAKE which governs the use and maintenance of Rainberry Lake, certain canals connecting to Rainberry Lake and certain parcels of land abutting Rainberry Lake and the canals. No lot owner shall own any portion of the lake or canals.

Section 3. USE OF CERTAIN COMMON AREAS (OTHER THAN LAKE AND CANALS) IN COMMON WITH OTHERS. Certain of the Common Areas described on Schedule "C" attached hereto, in addition to a portion of the entrance roads are used by Members of the Homes Association and by Members of the Villas of Rainberry Homeowners Association, Inc. The arrangement under which these facilities are owned and used in common are set forth in RECREATION AREA AGREEMENT, a copy of which is attached as Exhibit II.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. MEMBERSHIP. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot in the properties shall be a member of the Homes Association. Notwithstanding anything else to the contrary set forth in this Section 1, any such person or entity who holds such interest merely as security for the performance of any obligation shall not be a member of said association.

Section 2. VOTING RIGHTS. The Homes Association shall have two classes of voting membership:

Class A Class A members shall be all those Owners as defined in Section 1 with the exception of the Developer. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 1. When more than one person holds such interest or interests in any Lot, all such persons shall be members, and the vote for such Lot shall be exercised by one such member as specified in the Articles of Incorporation of the Homes Association but in no event shall more than one vote be cast with respect to any such Lot.

Class B The Class B member shall be the Developer. The Class B member shall be entitled to one vote for each Lot in which it holds the interest required for membership by Section 1; provided, however, that, notwithstanding any provision to the contrary, the Developer shall have the right to elect a majority of the Board of Directors of the Homes Association until such time as the Developer no longer holds the title to any portion of The Properties. If the Developer elects to bring other land under the provisions hereof in accordance with Article II, the right of Developer to elect a majority of the Board of Directors shall extend until the Developer no longer holds title to any portion of such future lands as may be brought under the provisions hereof (but in no event shall Developer control a majority of the Board of Directors for a period extending beyond eighteen (18) months after Developer has conveyed 85% of the lots located or to be located on the land described on Schedule "A").

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ARTICLE IV

PROPERTY RIGHTS IN THE COMMON AREAS

Section 1. OWNERSHIP. Fee simple title to the Common Areas covered by the Recreation Area Agreement (Exhibit II) herein referred to as "Recreation Areas", shall be conveyed in accordance with the Recreation Area Agreement on or before December 31, 1979, to the Homes Association and the Villas of Rainberry Homeowners Association, Inc., as tenants in common. Beginning upon the date this declaration is recorded, the Homes Association shall be responsible for its share of the cost of the maintenance of the Common Areas in a continuous and satisfactory manner without cost to the general tax payers of the City of Delray Beach, Florida and for the payment of its share of taxes assessed against the Common Areas and any improvements and any personal property thereon accruing from and after the date these covenants were recorded. Such taxes shall be prorated between Developer and the Homes Association as of the date of such recordation. Developer shall have the right from time to time to enter upon the Common Areas during periods of construction upon adjacent properties and for the purpose of construction of any facilities on the Common Areas that Developer elects to build. All roads shown on the recorded plats of the Properties shall be conveyed to the Homes Association, except that the road described on Schedule R shall be conveyed to the Homes Association and the Villas of Rainberry Homeowners Association, Inc., as tenants in common.

Section 2. MEMBERS' EASEMENTS. Each member of the Homes Association and each tenant, agent and invitee of such Member shall have a permanent and perpetual easement for the use of all Common Areas in common with Members of the Villas of Rainberry Homeowners Association, Inc., and in common with all other members of the Homes Association, their tenants, agents and invitees, subject to the following:

- (a) The right and duty of the Homes Association to levy assessments against each Lot for the purpose of paying its share of the cost of maintaining the Common Areas and facilities in compliance with the provisions of this Declaration and with any restrictions on the various plats of the Properties from time to time recorded.
- (b) The right of the Homes Association to suspend the voting rights and right to use the Common Areas and facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period determined by the Board of Directors of the Homes Association, or by the governing authorities established by Exhibits I or II, for each infraction of its lawfully adopted and published rules and regulations.
- (c) The right of the Homes Association or the governing authorities established by Exhibits I and II to charge a reasonable admission and other fees for the use of any recreational facility situated on the Common Areas. There will be no such charge during the period the Developer controls the Association.
- (d) The right of the Homes Association or the governing authorities established by Exhibits I and II to adopt and enforce rules and regulations governing the use of the Common Areas and all facilities (including boat docks) at any time situated thereon.

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The right of an Owner granted by this declaration to the use and enjoyment of the Common Areas and facilities thereon shall extend to the members of his immediate family who reside with him, subject to regulations referred to above. The Owner of any lot which fronts on the lake is hereby given an easement to construct, maintain and use (with an obligation to maintain same pursuant to the regulations of the Governing Authority established by Exhibit I or Architectural Control Board) a limited area adjacent to the Lot for purposes of a boat dock, the limited area to be as specified by the Developer. To the extent that any seawall extends or is located beyond the property line of a lot separating such a lot from a canal, said lot owner is hereby given an easement to erect a boat dock upon such seawall, the size and location of which shall be subject to the approval of the Developer and the Architectural Control Board or other governing board established by Exhibit I. If the Developer elects to utilize the seawall to be located at the north end of the canal which is to be located immediately south of the 80 acre parcel referred to in Section 2 of Article II for boat docks, then the Lot owners which have the exclusive right to use such boat docks, are hereby given an easement of access along the property immediately south of said seawall and boat docks, but such easement shall be merely used for egress and ingress by people and no boat shall be brought to or from such dock across said easement area.

Section 3. EASEMENT APPURTENANT. The easement provided in Section 2 shall be appurtenant to and shall pass with the title to each lot.

Section 4. MAINTENANCE. The governing authorities established by Exhibits I and II shall at all times maintain in good repair, and shall replace as often as necessary, all improvements situated in the Common Areas as required in Exhibits I and II. Maintenance of all other Common Areas and improvements situated thereon shall be performed by the Homes Association. Maintenance of the street lighting fixtures shall include payment for electricity consumed in the illumination of such lights. The Homes Association shall also be responsible for the maintenance, operation, repair and replacement of the sprinkler system which services the Properties. All work pursuant to this Section and all other expenses hereunder which are to be paid for by the Homes Association shall be collected from Members by assessments imposed in accordance with the Declaration. However, the cost of any maintenance, repair or replacement caused by the negligent conduct of a Member or by the failure of a Member to comply with the lawfully adopted rules and regulations of the Homes Association shall be levied as a special assessment against such Member. No Owner may waive or otherwise escape liability for the assessments for such maintenance by non-use of the Common Areas or abandonment of his right to use the Common Areas.

The cost of maintaining boat docking facilities shall not be part of the assessment levied upon all Members of the Homes Association. In addition to the above mentioned assessments, an additional special assessment may be levied against all of the owners of any lot which contains a seawall (or a portion thereof), or any lot having a seawall at the property line or otherwise separating the lot from a canal and such special assessment shall be charged against the owner of said lot in proportion to the number of linear feet of seawall on (or adjoining) the property of said owner as same

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relates to the total number of linear feet of seawall erected in the entire Rainberry Lake Development. Such special assessment shall be used solely for the maintenance, repair and replacement, if necessary, of any seawall in said development, and the charge to any one lot owner shall be in the proportion mentioned above regardless of the amount of maintenance, repair or replacement necessary to the individual's seawall (unless such repair or replacement is made necessary by the negligence of such lot owner, in which event such lot owner shall be solely responsible for such maintenance, repairs or replacement). In the event there is any portion of the seawall that is not part of any lot or is not located adjacent to a lot or between such lot and a canal, then the maintenance, repair or replacement of such seawall shall be shared by all of the lot owners in the same manner as any other assessment is levied for maintenance of a common area (i.e. shared equally by all lot owners), except that if a portion of such seawall that is not on a lot or adjacent to a lot or separating said lot from a canal, and same is used for docking privileges, then the owners of lots which have the exclusive use of such portion of a seawall for docking privileges shall share in any special assessment for the maintenance, repair or replacement of the seawall based on the linear feet of seawall allocated to said dock by Developer. The cost of maintaining any boat docking facility shall be paid for by each individual homeowner who has either a boat docking facility on his lot or the exclusive right to use a boat docking facility. However, in the event the maintenance of such boat docking facility is not in accordance with the rules established by the Homes Association, or the governing authority established by Exhibit I, then the Homes Association or such governing authority shall have the right to maintain, repair or replace any such boat docking facility and assess the homeowner involved for the cost of same.

Section 5. MAINTFNANCE BY CITY OF DELRAY BEACH. In the event the Homes Association fails properly to maintain the Common Areas or any portion thereof in a reasonable manner, the City of Delray Beach, or other governmental agency having jurisdiction (city) shall have the right, but not the obligation, to undertake such maintenance, repair or replacement as may be reasonably necessary. The judgement of the City as to whether or not the standard of maintenance called for in this paragraph is being met shall be final. The Right of the City shall not become effective, however, unless written notice shall first be given to the Association of the details of the intended maintenance, repairs or replacements to be undertaken by the City, and thirty (30) days shall elapse after the giving of such notice. If during such thirty (30) day notice the Association shall commence and diligently pursue the completion of such maintenance, repair or replacement, then the rights of the City shall not become effective.

In the event the City shall expend any money in maintaining, repairing or replacing any part of the Common Area pursuant to the right given to the City herein, then the City shall have the right to assess all the Owners for such expenditures in the same manner as the Association would have had, except that the City shall not be subject to any monetary limit established herein. Any such assessment levied by the City shall be subject to collection by the City by any of the remedies given to the Association for collection of assessments, and such assessments shall be a lien on all the land affected by this Declaration, proportionately allocated to each Owner. The lien shall secure costs of collection and a reasonable attorney fee.

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Section 6. UTILITY EASEMENTS. Public utilities may be installed underground in the Common Areas when necessary for the service of The Properties, but all use of utility easements shall be in accordance with the applicable provisions of this Declaration.

Section 7. PUBLIC EASEMENTS. Fire, police, health, sanitation and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas.

Section 8. CABLE TELEVISION EASEMENTS. The Homes Association and/or any private cable television company selected by the Developer is hereby granted an easement within the public utility areas for the installation, maintenance, repair and replacement of such facilities and equipment.

#### ARTICLE V

#### HOMES ASSOCIATION - COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF THE ASSESSMENTS. The Developer, for each Lot owned by it within The Properties hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed, in such deed or other conveyance, shall be deemed to covenant and agree to pay to the Homes Association assessments for maintenance as provided in Section 3 hereof; and assessments for the maintenance of the Common Areas as provided in Article IV hereof, including such reasonable reserves as may be deemed necessary or desirable; and special assessments as provided herein; such assessments to be fixed, established and collected from time to time as herein provided. The annual, special and other assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person who is the Owner of such property at the time when the assessment fell due. The assessments of the Homes Association, both regular and special shall be imposed equally on all Lots except as otherwise specifically set forth herein.

Section 2. PURPOSE OF ASSESSMENTS; SPECIAL ASSESSMENTS. The assessments levied by the Homes Association shall be used exclusively for exterior maintenance as provided in Section 3 hereof, for maintenance of the Common Areas and in accordance with Exhibits I and II hereof, and/or to promote the health, safety, welfare and recreational opportunities of the Members of the Homes Association and their families residing with them, their guests and tenants. Funds necessary for capital improvements relating to the Common Areas may be levied as special assessments by the Homes Association in accordance with Exhibits I and II hereof, or upon approval of a majority of the Board of Directors of the Homes Association and upon approval of a two-thirds favorable vote of Members voting at a meeting or by ballot as may be provided in the by-laws of the Homes Association.

Section 3. EXTERIOR MAINTENANCE. The Homes Association shall provide exterior maintenance for each building within The Properties as follows: Paint, repair, and care for exterior building surfaces (other than windows and screening) and fences. In addition to exterior maintenance referred to in the preceding sentence, the Homes Association shall be obligated to maintain the landscaping,

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trees, shrubs, grass, sprinkler heads, walks, drives and parking places and other exterior improvements situated on each Lot and such expenses may be apportioned on a flat overall charge against all Lots subject to assessment by the Homes Association. The obligations of the Homes Association as described herein shall extend only to those buildings, fences, shrubs, etc. as were originally installed by the Developer, but such association may, at its option, provide exterior maintenance on Owner-installed improvements, fences, shrubs, etc., and levy upon the Owner on whose Lot such work is performed a special assessment equal to the cost of such additional work. The Board of Directors of the Homes Association shall estimate the cost of any such exterior maintenance for each year and shall fix the assessment for each year, but said Board shall, thereafter, make such adjustment with the Owners as is necessary to reflect the actual cost of such exterior maintenance. Nothing contained herein shall obligate the Homes Association to make repairs or replacements of improvements on any lot damaged by fire, windstorm, hail or other casualty. The Homes Association shall not be obligated to repair any mechanical equipment (e.g., air-conditioning units) which is part of the residences located on the Lots, nor shall it be responsible for any repairs which could be made pursuant to the terms of any warranty covering a residence. It is the intention hereof that the Homes Association shall perform only routine maintenance as described in this Section 3 and the Homes Association shall not be responsible for maintenance expense caused by a homeowner's negligence on such homeowner's property.

Section 4. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS; DUE DATES. The annual assessments provided for herein shall commence on the first day of the month next following the recordation of these covenants.

The annual assessments shall be payable in advance in monthly installments, or in annual or quarter-annual installments if so determined by the Board of Directors of the Homes Association.

The amount of the annual assessment shall be \$681.00 per Patio Home Lot, payable in monthly installments of \$56.75, until the amount of the assessment is changed by action of said Board of Directors. Until all the recreation facilities are complete, the Developer shall have the right to reduce such assessment. The assessment amount may be changed at any time by said Board from that originally stipulated herein or from any other assessment that is in the future adopted. The assessment shall be for the calendar year, but the amount of the annual assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months remaining in such calendar year.

The due date of any special assessment shall be fixed in the Board resolution authorizing such assessment.

Section 5. DUTIES OF THE BOARD OF DIRECTORS. Except for the initial assessment specified in Section 4, the Board of Directors of the Homes Association shall fix the date of commencement and the amount of the assessment against each Lot subject to the association's jurisdiction for each assessment period at least 30 days in advance of such date or period, and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto.



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The Homes Association shall upon demand at any time furnish to any Owner liable for an assessment a certificate in writing signed by an officer of the Homes Association, setting forth whether such assessment has been paid as to any particular Lot. Such certificate shall be conclusive evidence of payment of any assessment to the Homes Association therein stated to have been paid.

The Homes Association, through the action of its Board of Directors, shall have the power, but not the obligation, to acquire by purchase, lease or otherwise, one or more dwelling units for occupancy by its employees or independent contractors, and to enter into an agreement or agreements from time to time with one or more persons, firms or corporations for management services. The Homes Association shall have all other powers provided in its Articles of Incorporation.

Section 6. EFFECT OF NON-PAYMENT OF ASSESSMENT; THE PERSONAL OBLIGATION OF THE OWNER; THE LIEN; REMEDIES OF THE ASSOCIATION.

If the assessments are not paid on the date when due (being the date specified in Section 4 hereof), then such assessments shall become delinquent and shall, together with such interest thereon and the cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them. Notwithstanding the preceding sentence, any individual who acquires title to a Lot upon the death of an Owner or by operation of law shall be personally liable for unpaid assessments with respect to such lot.

If the assessment is not paid within 30 days after the due date, the assessment shall bear interest from the date when due at the maximum legal rate chargeable to individuals per annum and the Homes Association may bring an action at law against the owner personally obligated to pay the same or may record a claim of lien against the property on which the assessment is unpaid or may foreclose the lien against the property on which the assessment is unpaid, or may pursue one or more of such remedies at the same time or successively and there shall be added to the amount of such assessment attorneys' fees and costs of preparing and filing the claim of lien and the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action, and the Homes Association shall be entitled to attorneys' fees in connection with any appeal of any such action.

It shall be the legal duty and responsibility of the Homes Association to enforce payment of the assessments hereunder.

Section 7. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessment provided for in this Article V shall be subordinate to the lien of any institutional first mortgage recorded prior to the recordation of a claim of lien for unpaid assessments. An institutional lender is defined as a state or federal bank or savings and loan association, an insurance company, trust company, savings bank or credit union. A mortgagee in possession, a receiver, a purchaser at a foreclosure sale, or a mortgagee that has acquired title by deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser, or mortgagee shall hold title subject

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to the liability and lien of any assessment becoming due after such foreclosure or conveyance in lieu of foreclosure. Any unpaid assessment which cannot be collected as a lien against any Lot by reason of the provisions of this Section 7, shall be deemed to be an assessment divided among payable by, and a lien against all Lots subject to assessment by the assessing association, including the Lots as to which the foreclosure (or conveyance in lieu of foreclosure) took place, the amount of assessment applicable to any one lot to be determined by using the same formula set forth in Section 4 of this Article, as same may be modified pursuant thereto:

Section 8. ACCESS AT REASONABLE HOURS. For the purpose solely of performing the exterior maintenance authorized by this Article, including all of the maintenance and work permitted under Section 3 of this Article, the Homes Association, through its duly authorized agents or employees or independent contractors, shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours on any day except Sunday. In the event of an emergency, such right of entry shall exist without notice and on any day, including Sunday.

Section 9. EFFECT ON DEVELOPER. Notwithstanding any provision that may be contained to the contrary in this instrument, for as long as Developer is the owner of any Lot, the Developer shall not be liable for assessments against such Lot, provided that Developer funds any deficit in operating expenses of the Homes Association. Developer may at any time commence paying such assessments as to Lots that it owns and thereby automatically terminate its obligation to fund deficits in the operating expenses of the Homes Association.

Section 10. TRUST FUNDS. The portion of all regular assessments collected by the Homes Association for reserves for future expenses, and the entire amount of all special assessments, shall be held by the Homes Association in trust for the Owners of all Lots, as their interests may appear.

## ARTICLE VI

### GENERAL RESTRICTIVE COVENANTS

Section 1. APPLICABILITY. The provisions of this Article VI shall be applicable to all Lots situated within The Properties.

Section 2. LAND USE. No Lot shall be used except for residential purposes. Temporary uses for model homes, parking lots, and/or sales and administrative offices as well as uses connected with construction and completion of the development, shall be permitted until Developer has sold all Lots.

Section 3. CHANGE IN BUILDINGS. No Owner shall make or permit any structural modification or alteration of any building except with the prior written consent of the Architectural Control Board (hereinafter identified) or its successor, and consent may be withheld if in the sole discretion of the party requested to give the same it appears that such structural modification or alteration would affect or in any manner endanger other dwelling units. No building shall be demolished or removed without the prior written consent of the Owner of a dwelling unit with which such building was connected at the time of its construction, and also, as long as Developer owns any Lot, the prior written consent of the Developer.

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Section 4. BUILDING LOCATION. Buildings shall be located in conformance with the Zoning Code of the City of Delray Beach, Florida, and any specific zoning approvals thereunder, or as originally constructed on a Lot by Developer. Whenever a variance or special exception as to building location or other item has been granted by the authority designated to do so under the Zoning Code, said variance or special exception is hereby adopted as an amendment to this Section and any future variance or special exception as to building location or other item shall constitute an amendment of this Section.

Section 5. EASEMENTS. Easements for installation and maintenance of utilities and for ingress and egress are reserved as shown on the recorded plats of The Properties. Within these easements indicated by dashed lines on the plats, no structure, planting or other material may be placed or permitted to remain that will interfere with the egress or ingress over same or prevent the maintenance of utilities. The area of each Lot covered by an easement and all improvements in the area shall be maintained continuously by the Owner of the Lot (or by the Homes Association, as may be provided elsewhere) except for the installations for which a public authority or utility company is responsible. Public utility companies servicing The Properties, and Developer, shall have a perpetual easement for the installation and maintenance, of water lines, sprinkler lines, sanitary sewers, storm drains, gas lines, electric and telephone lines, cables and conduits, and television cables and conduits under and through the utility easements as shown on the plats and under and through such portions of the rear of each Lot beyond the buildings, as such buildings may from time to time be located. Any damage caused to pavement, driveways, drainage structures, sidewalks, other structures, or landscaping in the installation and maintenance of such utilities shall be promptly restored and repaired by the utility whose installation or maintenance caused the damage. All utilities within the subdivisions, whether in streets, rights-of-way or utility easements, shall be installed and maintained underground, provided, however, that water and sewer treatment facilities and control panels for utilities may be installed and maintained above ground. The Association shall have the right to use water from the lake or canals for lawn sprinkling systems.

Section 6. NUISANCES. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or any other Lot owner.

Section 7. TEMPORARY STRUCTURES. No structure of a temporary character, or trailer, tent, mobile home or recreational vehicle shall be permitted on any lot either temporarily or permanently except as permitted in Section 2 of this Article. No gas tank, gas container, or gas cylinder shall be permitted to be placed on or about the outside of any house or any ancillary building, and all gas tanks, gas containers and gas cylinders shall be installed underground in every instance where gas is used, except that gas containers above ground may be used in connection with gas barbecues. In the alternative, gas containers may be placed above ground if enclosed on all sides by a decorative safety wall approved by the Architectural Control Board referred to in Section 12 hereof.

Section 8. SIGNS. No sign of any kind shall be displayed to the public view on The Properties except one sign of not more than one square foot used to indicate the name of the resident; or, after the Developer has sold all of the Lots, one sign of not more than five square feet advertising the property for sale; or any sign used by a builder or lender to advertise during the construction and sales period.

Section 9. OIL AND MINING OPERATIONS. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in The Properties nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in The Properties. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any portion of the land subject to these restrictions.

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Section 10. PETS, LIVESTOCK AND POULTRY. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets may be kept, subject to rules and regulations of the Homes Association, provided that they are not kept, bred or maintained for any commercial purpose, and provided that they do not become a nuisance or annoyance to any neighbor. No dogs or other pets shall be permitted to have excretions on any Lot, or anywhere else within The Properties except in locations designated by the Homes Association in its rules and regulations.

Section 11. VISIBILITY AT INTERSECTIONS. No obstructions to visibility at street intersections or Access Area intersections shall be permitted.

Section 12. ARCHITECTURAL CONTROL. No building, wall, fence or other structure or improvement of any nature shall be erected, placed or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure and landscaping as may be required by the Architectural Control Board have been approved in writing by the Architectural Control Board named below. Each building, wall, fence, or other structure or improvement of any nature, together with the landscaping, shall be erected, placed or altered upon the premises only in accordance with the plans and specifications and plot plan so approved. Refusal of approval of plans, specifications and plot plan, or any of them, may be based on any ground, including purely aesthetic grounds, which in the sole and uncontrolled direction of said Architectural Control Board seem sufficient. Any change in the exterior appearance of any building, wall, fence, or other structure or improvements, and any change in the appearance of the landscaping, shall be deemed an alteration requiring approval. The Architectural Control Board shall have the power to promulgate such rules and regulations as it deems necessary to carry out the provisions and intent of this paragraph. The Architectural Control Board is composed of: Morton V. Elish, Richard Siemens and Stanley M. Katz and until changed the address of said Board is 707 Rainberry Lake Drive, Delray Beach, Florida 33445. A Majority of the Board may take any action the Board is empowered to take, may designate a representative to act for the Board, and may employ personnel and consultants to act for it. In the event of death, disability or resignation of any member of the Board, the remaining members shall have the full authority to designate a successor. The members of the Board shall not be entitled to any compensation for services performed pursuant to this covenant. When all residential dwelling units proposed by the Developer to be constructed within The Properties, the members of the Architectural Control Board shall be designated by the directors of the Homes Association.

Section 13. EXTERIOR APPEARANCE AND LANDSCAPING. The paint, coating, stain and other exterior finishing colors on all buildings, seawall or boat dock shall be maintained in accordance with the provisions of this Declaration without prior approval of the Architectural Control Board, but prior approval by the Architectural Control Board shall be necessary before any such exterior finishing color is changed. The landscaping, including, without limitation, the trees, shrubs, lawns, flower beds, walkways and ground elevations, shall be maintained in accordance with this Declaration as originally installed by Developer, unless the prior approval for any substantial change is obtained from the Architectural Control Board. Aluminium foil may not be placed on windows or glass doors.

Section 14. COMMERCIAL TRUCKS, TRAILERS, CAMPERS AND BOATS. No trucks or commercial vehicles, campers, mobile homes, motor homes, vans, boats, house trailers, boat trailers, or trailers of every other description shall be permitted to be parked or to be stored at any

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place on any lot, except only during the periods of approved construction on said Lot, and except that they may be stored within garages or behind patio walls if not visible from the street or adjoining lot or a common area. This prohibition of parking shall not apply to temporary parking of trucks and commercial vehicles, such as for pick-up, delivery and other commercial services. No auto or other vehicle repair work shall be performed on any Lot or Common Area, except in case of emergency. No disabled vehicle shall be left on any Lot or Common Area for more than 24 hours. If Developer shall elect to include a storage area for such vehicles within The Properties, all such vehicles, boats, etc., must be stored within such area or within the garage located on a Lot.

Section 15. FENCES. No fence, wall or other structure shall be erected in the front yard, back yard, or side yard setback areas, except as originally installed by Developer and except any approved by the Architectural Control Board as above provided.

Section 16. GARBAGE AND TRASH DISPOSAL. No garbage, refuse, trash or rubbish shall be deposited on any Lot except in a walled-in area; provided, however, that the requirements from time to time of the City of Delray Beach for disposal or collection shall be complied with. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 17. DRYING AREAS. No clothing, laundry or wash shall be aired or dried on any portion of any Lot in an area exposed to view from any other Lot or street or Common Area. Drying areas will be permitted only in locations approved by the Architectural Control Board and only when protected from view by screening or fencing approved by the Board.

Section 18. GARAGE DOORS, ATHLETIC EQUIPMENT, CARRIAGES, BIKES, ETC. Garage doors shall be left in a closed position at all times except when a vehicle is to enter or exit from the garage. Bikes, carriages and other toys or similar equipment shall be stored in the garage or other area not in view from the street. No basketball hoop or other athletic equipment shall be installed in front of any residence. No television or radio antenna may be installed on the exterior of any residence.

## ARTICLE VII

### PARTY WALLS

Section 1. GENERAL. Each wall built as part of the original construction of any semi-attached dwelling upon The Properties and placed on the dividing line between the Lots thereof shall constitute a party wall, and each Owner shall own that portion of the wall which stands on his own Lot, with a cross-easement of support in the other portion.

Section 2. SHARING OF REPAIRING MAINTENANCE. The costs of reasonable repair and maintenance of a party wall shall be shared equally by the Owners who make use of the wall.

Section 3. DESTRUCTION BY FIRE OR OTHER CASUALTY. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore the same, but no greater dimension of said party wall, or of any extension, or restoration, thereof, shall be placed upon the land of the other Owner not extending, constructing, or restoring, said party wall beyond that existing

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prior to such fire or other casualty, without the written consent of the latter first obtained; no part of any addition to the dimensions of said party wall, or of any extension thereof already built, that may be made by any of said Owners, or by those claiming under them respectively, shall be placed upon the land of the other Owner, without the written consent of the latter first obtained. If the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner to call for a larger contribution for the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. WEATHER PROOFING. Notwithstanding any other provisions of this Article VII, any Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. RIGHT TO CONTRIBUTION RUNS WITH LAND. The right of any Owner to contribution from any other Owner under this Article VII shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. ARBITRATION. In the event of any dispute arising concerning a party wall, or under the provisions of this Article VII, each party shall choose one arbiter, and such arbiters shall choose one additional arbiter, and the decision of a majority of all the arbiters shall be final and conclusive of the question involved.

#### ARTICLE VIII

##### GENERAL PROVISIONS

Section 1. DURATION. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Developer. The Homes Association, or the Owner of any land subject to this Declaration, and their respective legal representatives, heirs, successors, and assigns, for a term of 99 years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten years each unless an instrument signed by the then Owners of two-thirds of the Lots has been recorded, agreeing to change said covenants and restrictions in whole or in part.

Section 2. NOTICE. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postage prepaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 3. ENFORCEMENT. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants, and failure by the Developer, the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. These covenants may also be enforced by the Architectural Control Board.

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Section 4. SEVERABILITY. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 5. AMENDMENT. In addition to any other manner herein provided for the amendment of this Declaration, the covenants, restrictions, easements, charges and liens of this agreement may be amended, changed, added to, derogated, or deleted at any time and from time to time upon the execution and recordation of any instruments executed by: (1) Developer, for so long as it holds title to any Lot affected by this Declaration; or alternatively, (2) by Owners holding not less than two-thirds vote of the membership in the Homes Association, provided that so long as the Developer is the owner of at least ten (10) Lots affected by this Declaration the Developer's consent must be obtained. Notwithstanding the foregoing provisions, no amendment affecting any provision hereof which was required by the Ordinances of the City of Delray Beach shall be effective without the written consent of the City of Delray Beach.

Section 6. EFFECTIVE DATE. This Declaration shall become effective upon its recordation in the Palm Beach County Public Records.

EXECUTED as of the date first above written.

*Carole Siemens*  
Carole Siemens, as Trustee

*Melvin T. Muroff*  
Melvin T. Muroff, as Trustee

RSM DEVELOPERS & ASSOCIATES, LTD.  
a Florida Corporation

By *Morton V. Elish*  
Morton V. Elish, President

Attest: *Richard Siemens*  
Richard Siemens, Secy.



STATE OF FLORIDA )  
COUNTY OF PALM BEACH ) ss.

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared CAROLE SIEMENS to me known to be the person described in and who executed the foregoing instrument and she acknowledged before me that she executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 22 day of April, 1979.

*Ernest J. ...*  
Notary Public  
Notary Public, State of Florida  
My Commission Expires  
MARCH 8, 1981 BONDED BY  
AUTO OWNERS INSURANCE CO.

SR107924

B3176 P0874

STATE OF FLORIDA )  
COUNTY OF PALM BEACH ) ss.

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared MELVIN I. MUROFF to me known to be the person described in and who executed the foregoing instrument and he acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 2 day of November, 1979.

*[Signature]*  
Notary Public

Notary Public, State of Florida  
at Large, My Commission Expires  
MARCH 8, 1981. BONDED BY  
AUTO OWNERS INSURANCE CO.

STATE OF FLORIDA )  
COUNTY OF PALM BEACH ) ss.

*for  
Richard Siemens,  
Secretary  
1/2/80*

The foregoing instrument was acknowledged before me this 31st day of October, 1979, by MORTON V. ELLISH, President of RSM DEVELOPERS, INC., a Florida Corporation, on behalf of the corporation, which corporation executed said instrument as General Partner of RSM DEVELOPERS & ASSOCIATES, LTD., a limited partnership.

*[Signature]*  
Notary Public

Notary Public, State of Florida  
at Large, My Commission Expires  
MARCH 8, 1981. BONDED BY  
AUTO OWNERS INSURANCE CO.



SCHEDULE "A" B3176 P0875  
 DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS FOR  
 RAINBERRY LAKES HOMES

A PORTION OF LAND LYING IN THE EAST ONE-HALF OF SECTION 7, TOWNSHIP 46 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 7; THENCE S 0°23'58"E ALONG THE EAST LINE OF SAID SECTION 7, FOR 110.00 FEET; THENCE N 89°55'47"W FOR 53.00 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF CONGRESS AVENUE AS NOW LAID OUT AND USED; THENCE S 0°23'58"E ALONG THE WESTERLY RIGHT-OF-WAY OF CONGRESS AVENUE AS LAID OUT AND NOW IN USE FOR 1112.16 FEET TO A POINT OF CURVATURE; THENCE ~~980.27~~ FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 3766.80 FEET AND A CENTRAL ANGLE OF 14°54'38" TO THE SOUTHEAST CORNER OF THE PINES OF DELRAY NORTH - SECTION 1 ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGES 145 AND 146 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, AND SAID CORNER BEING THE POINT OF BEGINNING OF THE FOLLOWING PARCEL OF LAND; THENCE DEPARTING FROM SAID RIGHT-OF-WAY ON A NON-RADIAL LINE ALONG THE SOUTH BOUNDARY OF SAID PLAT OF THE PINES OF DELRAY NORTH N 89°55'47"W A DISTANCE OF 1591.00 FEET TO THE SOUTHWEST CORNER OF SAID PLAT OF THE PINES OF DELRAY NORTH; THENCE S 01°46'26"W A DISTANCE OF 944.96 FEET; THENCE S 00°01'25"E A DISTANCE OF 683.34 FEET TO THE NORTHERLY RIGHT-OF-WAY OF LAKE IDA ROAD, AN 80 FOOT RIGHT-OF-WAY AS NOW LAID OUT AND IN USE; THENCE N 89°58'40"E ALONG THE NORTHERLY RIGHT-OF-WAY OF SAID LAKE IDA ROAD A DISTANCE OF 249.36 FEET TO A POINT OF CURVATURE; THENCE 436.69 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1649.66 FEET AND A CENTRAL ANGLE OF 15°10'01"; THENCE DEPARTING FROM THE NORTHERLY RIGHT-OF-WAY OF SAID LAKE IDA ROAD ON A NON-RADIAL LINE BEARING N 18°39'42"E A DISTANCE OF 781.84 FEET; THENCE N 89°59'17"E A DISTANCE OF 381.00 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF SAID CONGRESS AVENUE; THENCE N 18°39'42"E ALONG SAID RIGHT-OF-WAY LINE 718.60 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY 272.88 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 3766.80 FEET AND A CENTRAL ANGLE OF 04°09'02" TO THE POINT OF BEGINNING.

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## DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS FOR RAINBERRY LAKES HOMES

## SCHEDULE C

LEGAL DESCRIPTIONOF COMMON AREAS

Recreation Area Tract "K" Rainberry Lake Phase IV-A according to the Plat thereof as recorded in Plat Book 38, at Pages 110-111 of the Public Records of Palm Beach County, Florida; and

Recreation Tracts "A" and "B" Rainberry Lake Phase 2, according to the Plat thereof as recorded in Plat Book 37, at Pages 94 and 95, of the Public Records of Palm Beach County, Florida; and

Recreation Tract "C" Rainberry Lake Phase 2, according to the Plat thereof as recorded in Plat Book 37, at Pages 94 and 95, of the Public Records of Palm Beach County, Florida.

LESS AND EXCEPT the following described parcel:

From a Point of Reference being the Southwest Corner of the aforementioned Plat of Rainberry Lake; thence N 00°04'13"E along the Westerly line of aforementioned Plat a distance of 263.41 feet to the point of beginning; thence continue N 00°04'13"E, a distance of 42.43 feet to the Southwesterly corner of Lot 15 of aforementioned Plat; thence S 67°08'03"E, a distance of 109.50 feet to the Southeasterly corner of said Lot 15; thence N 89°55'47"W, a distance of 100.95 feet to the Point of Beginning.

Parcel containing 0.05 acres more or less;

and

Recreation Area Tract "J" Rainberry Lake Phase III-A according to the Plat thereof to be recorded in the Public Records of Palm Beach County, Florida;

84 160113

ON JUL 18 AM 11:30

AMENDMENT TO DECLARATION OF RESTRICTIONS  
AND PROTECTIVE COVENANTS  
FOR RAINBERRY LAKE HOMES

THIS AMENDMENT is made this 17th day of July, 1988 by RSM DEVELOPERS & ASSOCIATES, LTD., a Florida limited partnership (the "Developer").

On October 30, 1979, Carole Siemens, as Trustee Melvin I. Muroff, as Trustee, and RSM Developers & Associates, Ltd., executed that certain Declaration of Restrictions and Protective Covenants for Rainberry Lake Homes ("the Declaration"), which instrument was recorded on November 16, 1979 in Official Records Book 3176, Page 860 of the Public Records of Palm Beach County, Florida. Article VIII, Section 5 of the Declaration provides that the Declaration may be amended at any time upon the execution and recordation of any instruments executed by the Developer for so long as it holds title to any Lot affected by the Declaration. Accordingly, the Declaration is hereby amended as follows:

1. The last two sentences of Article IV, Section 4 of the Declaration are revised to read as follows:

9.60  
"The cost of maintaining any boat docking facility shall be paid for by each individual homeowner who has either a boat docking facility on his lot or the exclusive right to use a boat docking facility. However, in the event the maintenance of such boat docking facility is not in accordance with the rules established by the Homes Association, or the governing authority established by Exhibit I, then the Homes Association or such governing authority shall have the right to maintain, repair or replace any such boat docking facility and assess the homeowner involved for the cost of same."

2. The last sentence of Article IV, Section 2 is revised to read as follows:

"If the Developer elects to utilize the seawall to be located at the north end of the canal which is to be located immediately south of the 80 acre parcel referred to in Section 2 of Article II for boat docks, then the Lot owners which have the exclusive right to use such boat docks, are hereby given an easement of access along the property immediately south of said seawall and boat docks, but such easement shall be merely used for egress and ingress by people and no boat shall be brought to or from such dock across said easement area."

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All other provisions of the Declaration which have not been modified herein are reaffirmed and remain and are in full force and effect.

RSM DEVELOPERS & ASSOCIATES, LTD., a Florida limited partnership

By: RSM DEVELOPERS, INC., a Florida corporation, the General Partner (SEAL)

By: Roy Flack  
Roy Flack, Vice President

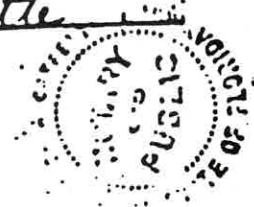


STATE OF FLORIDA  
COUNTY OF PALM BEACH

THE FOREGOING INSTRUMENT was acknowledged before me, the undersigned authority, by Roy Flack, as Vice President of RSM DEVELOPERS, INC., a Florida corporation, as General Partner of RSM DEVELOPERS & ASSOCIATES, LTD., a Florida limited partnership, on behalf of the limited Partnership.

WITNESS my hand and official seal in the County and State last aforesaid this 10th day of July, 1988.

Rose A. Catrette  
Notary Public  
State of Florida



My commission expires:  
NOTARY PUBLIC STATE OF FLORIDA AT LARGE  
MY COMMISSION EXPIRES NOV 27 1989  
BOND \$10,000

This instrument prepared by  
and to be returned to:

Merlan Pearlman Neese, Esquire  
711 N. W. 25th Avenue  
Delray Beach, Florida 33445



B4299 P0337

RECORD VERIFIED  
PALM BEACH COUNTY FLA  
JOHN B. DUNKLE  
CLERK CIRCUIT COURT

B3 F76 P0877

## DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS s87916

FOR RAINBERRY LAKE HOMES

EXHIBIT I.DECLARATION OF USE AND OBLIGATIONS

-of-

RAINBERRY LAKE

THIS DECLARATION made this 16 day of October 1979, between the PINES OF DELRAY NORTH ASSOCIATION, INC., a Florida non-profit corporation, hereinafter referred to as the "Pines", and all of the owners (other than owners of condominium units of the Pines of Delray North Condominium) of the property described on Exhibit "A" attached hereto, all of which owners are listed on Exhibit "B" attached hereto.

1. The Pines (on behalf of itself and all of the condominium units owners of the Pines of Delray North, a condominium), with respect to the property described on Exhibit "C", as well as all of the other owners of property described in Exhibit "A", do hereby declare and agree that all of the property described in Exhibit "A" and Exhibit "C" shall be subject to the obligations of this Declaration and shall be entitled to the benefits created hereby.

2. The Lake area located within the property described on Exhibit "A" and Exhibit "C" shall hereinafter be referred to as "Rainberry Lake" or the "Lake". Rainberry Lake, as presently constituted, shall not be reduced in size, nor shall the perimeter thereof be modified in any substantial manner, other than (a) by the creation of canals connecting into the said Lake, (b) filling in the area at the north end for purposes of constructing and maintaining the control gate (sometimes herein referred to as the "lock connection") connecting the Lake to the Lake Worth Drainage District

This instrument prepared by:  
 Stanley M. Katz, Esq.  
 711 N.W. 25th Avenue  
 Delray Beach, Florida 33445

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Canal L-30, and (c) filling in an area at the south end to be used for a recreation area for members of Rainberry and Centex Association.

3. Every owner of a lot on the property described on Exhibit "A", as well as any unit owner of a condominium of the Pines of Delray North, a condominium, shall have the right to use the Lake area, provided legal access thereto is obtained by any such property or unit owner, subject, however, to the rules and regulations established hereby and subject to the obligations contained herein. The land adjoining the Lake shall belong exclusively to the adjoining land owner and shall not be used for egress or ingress by anyone, except by specific permission from the said adjoining land owner. With respect to the land frontage which is part of the Pines of Delray North condominium, same shall be subject to the rules and regulations hereof as well as the rules and regulations established by the Pines.

4. All of the parties hereto do hereby agree to share in the cost of maintaining the Lake and the lock connection between the Lake and the Lake Worth Drainage District Canal L-30 located at the north end of the Lake. The said costs shall be shared as follows:

Pines	25%
Rainberry Lake Homeowners Association, Inc.	25%
Centex Homeowners Association	50%

All land owners located west of the center line of Rainberry Lake and east of Davis Road, north of Lake Ida Road and south of said

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Lake Worth Drainage District Canal L-30 (excluding any area which shall be designated as a common area or for egress and ingress on any filed plat affecting such land) shall be obligated to be a member of the non-profit homeowners association formed by the developer of such land, ("Centex Association" or "Centex"), and all land owners located east of the Lake and south of the Pines shall be obligated to be a member of Rainberry Lake Home<sup>de</sup> Association, Inc. ("Rainberry"). An account shall be opened by the Governing Board for the purpose of collecting funds to be used for paying for the said maintenance costs. The account shall be in the name of the three Associations and shall require the signature of one of the members of the Governing Board designated by Centex and one of the members of the Governing Board designated by either Pines or Rainberry. All members of the Governing Board will be authorized signatories. The Governing Board shall decide whether payments to the said account will be required to be made by each Association annually or more frequently and the said Board shall also decide what the initial amount to be deposited in the account, shall be, and when same shall be made.

5. The Governing Board of the Lake shall be appointed as follows:

- Pines . . . . . 1 member
- Rainberry . . . . . 1 member
- Centex Association . . . . . 2 members

Each member of said Governing Board must be an owner of a lot or a condominium unit affected by this Declaration or an officer of Pines, Rainberry or Centex Association. The Governors are to be

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appointed by the respective Associations. Said Governing Board shall have full responsibility for the operation and control of the Lake as contemplated hereby and shall promulgate rules and regulations for the use of the Lake in general, as well as for the use of the Lake by guests, and shall prepare an operating budget at least once each year to cover all of the expenses contemplated hereby, which budget shall be payable by each Association in the percentages mentioned in Paragraph 4. Each Association shall be responsible for collecting same from the individual members of such Association. While the Governing Board of the Lake is not to be a separate incorporated association, the Governing Board is hereby given the right, provided they first obtain the consent of each of the Associations, to form themselves into a corporation so long as the purposes and powers of the corporation are in conformance with this Agreement. All actions taken by the Governing Board shall be by a majority of the Board except as otherwise set forth herein.

6. No land owner or condominium unit owner nor any association may avoid or otherwise escape liability for the moneys payable hereunder by the non-use of the Lake or by the abandonment of any rights herein.

7. Pines and each owner of any land located on Exhibit "A" is hereby granted the right to use the water in the Lake for purposes of drainage (to the extent same is legally permissible) and for lawn sprinkling, provided access to the Lake is obtained by such land owner through legal means.

The following rules and regulations shall apply until modified as permitted herein:



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(a) Use of the Lake is permitted only from 7 A.M. until midnight seven (7) days per week;

(b) Children under the age of sixteen shall not use a motorized boat on the Lake unless accompanied by a person at least sixteen years of age;

(c) All persons using the Lake do so at their own risk;

(d) The control lock to be located at the north end of the Lake where same connects with the Lake Worth Drainage District L-30 will be operated by a device issued by the Associations, such as a key or a magnetic card. The operation of the control lock is subject to the regulations of the South Florida Water Management District and the Lake Worth Drainage District. One key or magnetic card (or other type of opening device) will be issued to each member having rights to use the lake and same is not to be duplicated without the written permission from the Association to which said member belongs;

(e) No boat shall be left in a stationary position for more than fifteen minutes in any area customarily used for cruising; no boat shall be docked anywhere other than at a permanent dock authorized hereby;

(f) No refuse of any kind is to be discharged into the Lake;

(g) Size of boat not to exceed 19 feet in length;

(h) The speed limit on the Lake shall be five miles per hour and the speed limit in a canal shall be the maximum speed

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which will not cause a wake;

(i) No boat shall cause or permit any oil or gas spills;

(j) No water skiing shall be permitted anywhere on the Lake;

(k) Each Association shall be responsible for the actions of its members.

Said rules and regulations may be amended or supplemented by 75% of the Governing Board.

8. This Declaration and the obligations herein, as well as the rights herein, shall be binding upon and shall be for the benefit of the parties hereto, their heirs, successors and assigns, and shall bind each and every land owner or condominium unit owner located within the land described on Exhibit "A" and on Exhibit "C", for a period of seventy-five years from the date of the execution of this Agreement. Thereafter, 75% of the Governing Board of the Lake shall have the right to extend the term of this Declaration for three twenty-five year extension periods. 100% of Governing Board is hereby given the right to amend this Declaration.

9. An architectural review committee consisting of three, to be designated by the members of the Governing Board of the Lake, to be composed of one member of the Pines and one member of the Rainberry Association and one member of the Centex Association is hereby granted the power and authority to control the appearance of any dock or other similar structure which may hereafter be erected on the land immediately adjoining and surrounding Rainberry Lake.

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No such dock or other similar structure may be erected or maintained, nor shall any addition or alteration thereof be made which would change the exterior appearance thereof unless and until the plans and specifications showing the nature, kind, shape, height, materials and location of the same have been submitted to and approved in writing, as to harmony of exterior design. Plans and specifications for final approval shall include the following: Front elevation (front elevation meaning the side facing the Lake) and both side elevations; data as to materials, color and texture. Any dock referred to herein must be placed either at an edge of a canal, or on land owned, or in the area of an easement granted by the following sentence. The owner of any land is hereby granted an easement to install and maintain a dock beyond such property owner's land extending two feet into an adjoining canal and extending into the Lake so that the edge of the dock which is furthest from the owner's land is where the depth of the Lake does not exceed two feet (when the mean water level is eight feet above sea level). Any dock installed above a canal shall not protrude more than two feet beyond the sea wall cap. Any dock installed on the Lake shall not extend beyond the area where the depth of the Lake does not exceed two feet (when the mean water level is eight feet above sea level). In the event the mean water level varies from year to year, if a dock was in accordance with the depth requirements of this Declaration when installed, same may remain where originally installed. No dock shall exceed four feet by twelve feet in size. In the event the committee shall fail to approve or disapprove such plans and specifications within thirty days after submission of the plans, to them, then

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such approval will not be required but all other conditions and restrictions contained herein shall remain in force. Request for approval of the architectural review committee shall be submitted in writing with a copy addressed to the architectural review committee, c/o each Association. The architectural review committee shall have the right to require an owner of a dock to repair a dock if the appearance thereof has reached the state of being unsightly in the opinion of the architectural review committee, and in the event of the failure on the part of any such owner to make such repair, then the architectural review committee and/or any Association referred to herein shall have the authorization to make such repair and charge the owner for same. In the event any owner fails to pay for the cost of any such repair made by the architectural review committee or the association within ten days after the demand for same, such owner hereby agrees that his property shall be subject to a lien to secure the repayment of same. Any such lien, however, shall be subject and subordinate to any "institutional first mortgage" (as such term is commonly defined in the Palm Beach County area) of record as of the date of the filing of the lien authorized by this paragraph.

10. Invalidation of any portion of this Declaration by judgment or Court order shall in no wise affect any other provision hereof, which shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have set their

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hands and seals the day and year first above written.

In the presence of:

[Signature]  
Patricia Burstein

[Signature]  
[Signature]

In the presence of:

[Signature]  
[Signature]

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

[Signature]  
[Signature]  
[Signature]

PINES OF SEBRAY NORTH ASSOCIATION, INC.

[Signature] [Signature]  
Pres.

LAKESBERRY DEVELOPERS, INC.

By Paul [Signature]  
In.

[Signature]  
Melvin I. Muroff, Individually and  
as Trustee

~~Gloria Muroff~~

RSM DEVELOPERS & ASSOCIATES, LTD.  
a Florida Corporation

By RSM DEVELOPERS, INC.

By: [Signature]  
Morton V. Ellish, Pres.  
Richard Siemens

[Signature]  
Carole Siemens, individually  
and as Trustee

B31-76-P0885

877920

STATE OF FLORIDA )  
COUNTY OF Palm Beach ) SS.:

BEFORE ME, the undersigned authority, personally appeared Robert G. Chirouil as President of PINES OF DELRAY NOTH ASSOCIATION, INC., a Florida corporation, to me well known, who acknowledged to and before me that he executed the foregoing agreement for the purposes therein described.

*Richard M. McCalla*  
Notary Public, State of Florida at Large

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA AT LARGE  
MY COMMISSION EXPIRES MAR 31 1987  
BONDED THRU GENERAL INS UNDERWRITERS

STATE OF FLORIDA )  
COUNTY OF DADE ) SS.:

BEFORE ME, the undersigned authority, personally appeared PAUL STEIN as PRESIDENT of LAKESBERRY DEVELOPERS, INC., a Florida corporation, to me well known, who acknowledged to and before me that he executed the foregoing agreement for the purposes therein described.

*Dated this Oct. 16, 1979.*

*Maurice Caplan*  
Notary Public, State of Florida at Large

My Commission Expires:

Notary Public, State of Florida at Large  
My Commission Expires August 21, 1983  
Bonded thru Maynard Bonding Agency

STATE OF FLORIDA )  
COUNTY OF Dade ) SS.:

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared MELVIN I. MURROFF, Individually and as Trustee, ~~joined by his wife, GERALD MURROFF,~~ to me known to be the persons described in and who executed the foregoing instrument and they acknowledged before me that they executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 16<sup>th</sup> day of October, 1979.

*Maurice Caplan*  
Notary Public, State of Florida at Large

My Commission Expires:

Notary Public, State of Florida at Large  
My Commission Expires August 21, 1983

B3176 P0887

877920

STATE OF FLORIDA )  
 )  
 ) : ss.:  
COUNTY OF *Dade* )

The foregoing instrument was acknowledged before me this *16<sup>th</sup>* day of *October*, 1979, by Richard Siemens, Vice Pres. of RSM DEVELOPERS, INC., a Florida corporation, on behalf of the corporation, which corporation executed said instrument as General Partner of RSM DEVELOPERS & ASSOCIATES, LTD., a limited partnership.

My Commission Expires:

Notary Public, State of Florida at Large  
My Commission Expires August 21, 1983  
Bonded thru Maynard Bonding Agency

*Maurice Cooper*  
Notary Public, State of  
Florida at Large

STATE OF FLORIDA )  
 )  
 ) : ss.:  
COUNTY OF *Dade* )

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared CAROLE SIEMENS, Individually and as Trustee, to me known to be the person described in and who executed the foregoing instrument and she acknowledged before me that she executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this *16<sup>th</sup>* day of *October*, 1979.

My Commission Expires:

Notary Public, State of Florida at Large  
My Commission Expires August 21, 1983  
Bonded thru Maynard Bonding Agency

*Maurice Cooper*  
Notary Public, State of  
Florida at Large

B3176 P0888

s77923-24  
97927DECLARATION OF RESTRICTIONS AND PROTECTIVE  
COVENANTS FOR RAINBERRY LAKE HOMESEXHIBIT "A"

ALL that portion of the East half of Section 7, Township 46 South, Range 43 East, lying West of the Westerly right-of-way of Congress Avenue as laid out and now in use, and North of the Northerly right-of-way of Lake Ida Road as shown on Plat of Delray Shores, Sheets 1 and 2, as recorded in Plat Book 24, pages 232 and 233, Public Records of Palm Beach, Florida, LESS the right-of-way of Lake Worth drainage district lateral canal #30 and LESS the west 40 feet for the Davis Road Right-of-way.

LESS:

A portion of the East One-Half (E 1/2) of Section 7, Township 46 South, Range 43 East, more particularly described as follows:

Commencing at the Northeast corner of said Section 7; thence N  $89^{\circ}54'30''$  W for 53.00 feet along the North line of said Section 7 to a point; thence S  $0^{\circ}23'20''$  E for 1222.21 feet along the Westerly right-of-way line of Congress Avenue as laid out and now in use to a point of curvature of a curve concave to the West; thence Southwesterly for 1253.23 feet along said Westerly right-of-way line and along the arc of said curve having for its elements a radius of 3766.80 feet and a central angle of  $19^{\circ}03'45''$  to a point of tangency; thence S  $18^{\circ}40'25''$  W for 718.02 feet along said Westerly right-of-way line to the POINT OF BEGINNING, thence continue S  $18^{\circ}40'25''$  W for 920.45 feet, along said Westerly right-of-way line to a point of intersection with the Northerly right-of-way line of Lake Ida Road as shown on the Plat of DELRAY SHORES according to the plat thereof recorded in Plat Book 24, Page 233 of the Public Records of Palm Beach County, Florida thence N  $64^{\circ}09'50''$  W for 54.16 feet along said Northerly right-of-way line to a point of curvature of a curve concave to the Southwest; thence Northwesterly for 307.80 feet along said Northerly right-of-way line and along the arc of said curve having for its elements a radius of 1649.66 feet, a central angle of  $10^{\circ}41'26''$  and a chord bearing of N  $69^{\circ}29'18''$  West to a point; thence N  $18^{\circ}40'25''$  E for 721.96 feet to a point; thence East for 381.00 feet to the Point of Beginning; containing an area of 7.00 acres more or less.

and LESS:

A parcel of land in the NE $\frac{1}{4}$  of Section 7, Township 46 South, Range 43 East, said parcel being more particularly described as follows:

Commencing at the Northeast corner of said Section 7; thence run South  $0^{\circ} 23' 20''$  East (on an assumed bearing) 90 feet along the East line of said NE $\frac{1}{4}$  of Section 7, to an intersection with the Southerly right of way line of the Lake Worth Drainage District Canal L-30; thence run North  $89^{\circ} 54' 30''$  West 1688.97 feet along said Southerly right of way line; thence run South  $1^{\circ} 50' 30''$  West 1253.60 feet, to the Point of Beginning; thence continue South  $1^{\circ} 50' 30''$  West 849.81 feet; thence run South  $89^{\circ} 54' 30''$  East 1591 feet, to a point of intersection with the arc of a curve running



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DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS FOR RAINBERRY LAKE HOMES

EXHIBIT "A"

(continued)

Northwesterly to the left, a radial said point bearing North 75° 28' 42" West; thence along the arc of said curve to the left, (also forming the Westerly right of way line of Congress Avenue as now located and constructed), having a radius of 3766.80 feet and a central angle of 13° 37' 04" run Northeasterly 895.27 feet; thence run South 89° 36' 40" West 268.09 feet; thence run South 19° 01' 56" East 1.47 feet, to a point of curvature of a curve to the right; thence along the arc of said curve to the right, having a radius of 200 feet and a central angle of 24°, run Southerly 83.78 feet, to a point of tangency; thence run South 4° 58' 04" West 28.76 feet along the tangent extended; thence run North 85° 01' 56" West 246.43 feet; thence run South 65° 35' 30" West 100.10 feet; thence run North 24° 24' 30" West 45.62 feet; thence run North 89° 54' 30" West 120 feet; thence run North 0° 05' 30" East 38 feet; thence run North 89° 54' 30" West 262.29 feet; thence run South 18° 35' 30" West 40.07 feet; thence run North 89° 54' 30" West 90 feet; thence run North 0° 05' 30" East 42 feet; thence run North 89° 54' 30" West 170 feet; thence run North 0° 05' 30" East 16 feet; thence run North 89° 54' 30" West 413.23 feet, to the Point of Beginning.

Said lands situate in the City of Delray Beach, Palm Beach County, Florida and containing 31.388 acres, more or less.

and LESS:

ALL of the Pines of Delray North, Section 2, according to the Plat thereof, recorded in Plat Book 38, Page 17, of the Public Records of Palm Beach County, Florida.

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DECLARATION OF RESTRICTIONS AND PROTECTIVE  
COVENANTS FOR RAINBERRY LAKE HOMES

EXHIBIT "B"

LAKESBERRY DEVELOPERS, INC.  
MELVIN I. MUROFF, as Trustee  
RSM DEVELOPERS & ASSOCIATES, LTD.  
CAROLE SIEMENS, as Trustee

B3176 P0891

B77924 -87930

DECLARATION OF RESTRICTIONS AND PROTECTIVE  
COVENANTS FOR RAINBERRY LAKE HOMES

EXHIBIT "C"

A parcel of land in the NE¼ of Section 7, Township 46 South, Range 43 East, said parcel being more particularly described as follows:

Commencing at the Northeast corner of said Section 7; thence run South 0° 23' 20" East (on an assumed bearing) 90 feet along the East line of said NE¼ of Section 7, to an intersection with the Southerly right of way line of the Lake Worth Drainage District Canal L-30; thence run North 89° 54' 30" West 1688.97 feet along said Southerly right of way line; thence run South 1° 50' 30" West 1253.60 feet, to the Point of Beginning; thence continue South 1° 50' 30" West 849.81 feet; thence run South 89° 54' 30" East 1591 feet, to a point of intersection with the arc of a curve running Northwesterly to the left, a radial said point bearing North 75° 28' 42" West; thence along the arc of said curve to the left, (also forming the Westerly right of way line of Congress Avenue as now located and constructed), having a radius of 3766.80 feet and a central angle of 13° 37' 04" run Northeasterly 895.27 feet; thence run South 89° 36' 40" West 268.09 feet; thence run South 19° 01' 56" East 1.47 feet, to a point of curvature of a curve to the right; thence along the arc of said curve to the right, having a radius of 200 feet and a central angle of 24°, run Southerly 83.78 feet, to a point of tangency; thence run South 4° 58' 04" West 28.76 feet along the tangent extended; thence run North 85° 01' 56" West 246.43 feet; thence run South 65° 35' 30" West 100.10 feet; thence run North 24° 24' 30" West 45.62 feet; thence run North 89° 54' 30" West 120 feet; thence run North 0° 05' 30" East 38 feet; thence run North 89° 54' 30" West 262.29 feet; thence run South 18° 35' 30" West 40.07 feet; thence run North 89° 54' 30" West 90 feet; thence run North 0° 05' 30" East 42 feet; thence run North 89° 54' 30" West 170 feet; thence run North 0° 05' 30" East 16 feet; thence run North 89° 54' 30" West 413.23 feet, to the Point of Beginning.

Said lands situate in the City of Delray Beach, Palm Beach County, Florida and containing 31.388 acres, more or less.

AND

ALL of the Pines of Delray North, Section 2, according to the Plat thereof, recorded in Plat Book 38, Page 17, of the Public Records of Palm Beach County, Florida.

## ARTICLE V

DIRECTORS

Section 1. MANAGEMENT BY DIRECTORS. The property, business and affairs of the Association shall be managed by a Board of Directors, which shall consist of not less than three nor more than nine persons, but as many persons as the Board of Directors shall from time to time determine. A majority of the directors in office shall constitute a quorum for the transaction of business. The By-Laws shall provide for meetings of directors, including an annual meeting.

Section 2. ORIGINAL BOARD OF DIRECTORS. The names and addresses of the first Board of Directors of the Association, who shall hold office until the first annual meeting of members in 1980 and until qualified successors are duly elected and have taken office, shall be as follows:

RICHARD SIEMENS

711 N.W. 25th Avenue  
Delray Beach, Florida 33445

STANLEY M. KATZ

711 N.W. 25th Avenue  
Delray Beach, Florida 33445

MORTON V. ELLISH

707 Rainberry Lake Drive  
Delray Beach, Florida 33445

Section 3. ELECTION OF MEMBERS OF BOARD OF DIRECTORS. Except for the first Board of Directors, directors shall be elected by the members of the Association at the annual meeting of the membership as provided by the By-Laws of the Association, and the By-Laws may provide for the method of voting in the election and for removal from office of directors. All directors shall be members of the Association residing in the Rainberry Lake development or shall be authorized representatives, officers, or employees of corporate members of the Association provided that such limitations shall not apply to Directors appointed by the Developer.

Section 4. DURATION OF OFFICE. Members elected to the Board of Directors shall hold office until they resign or until the next annual meeting of members, and thereafter until qualified successors are duly elected and have taken office.

Section 5. VACANCIES. If a director elected by the general membership shall for any reason cease to be a director, the remaining directors so elected may elect a successor to fill the vacancy for the balance of the unexpired term.

## ARTICLE VI

OFFICERS

Section 1. OFFICERS PROVIDED FOR. The Association shall have a President, a Vice president, a Secretary, and a Treasurer, and such other officers as the Board of Directors may from time to time elect.

Section 2. ELECTION AND APPOINTMENT OF OFFICERS. The officers of the Association, in accordance with any applicable provisions of the By-Laws, shall be elected by the Board of Directors for terms of one year and until qualified successors are duly elected and have taken office. The By-Laws may provide for the method of voting in the election, for the removal from office of officers, for filling vacancies, and for the duties of the officers. The President and Vice President shall be directors; other officers may or may not be directors of the Association. If the office of president shall become vacant for any reason, or if the President shall be unable or unavailable to act, any Vice President shall automatically succeed to the office or perform its duties and exercise its powers. If any office other than that of the president shall become vacant for any reason, the Board of Directors may elect or appoint an individual to fill such vacancy.

Section 3. FIRST OFFICERS. The names and addresses of the first officers of the Association, who shall hold office until the annual meeting of directors in 1980 and until successors are duly elected and have taken office, shall be as follows:

<u>OFFICE</u>	<u>NAME</u>	<u>ADDRESS</u>
President	MORTON V. ELLISH	707 Rainberry Lake Dr Delray Beach, Florida 33445
Vice-President and Secretary	RICHARD SIEMENS	711 N.W. 25th Avenue Delray Beach, Florida 33445
Treasurer and Asst. Secretary	STANLEY M. KATZ	711 N.W. 25th Avenue Delray Beach, Florida 33445

## ARTICLE VII

BY-LAWS

The Board of Directors shall adopt By-Laws consistent with these Articles of Incorporation. Such By-Laws may be altered, amended or repealed by the membership in the manner set forth in the By-Laws

FILED  
OCT 25 11 38 AM '79  
SECRETARY OF STATE  
MIAMI, FLORIDA

ARTICLE VIII

AMENDMENTS

Amendments to these Articles of Incorporation shall be proposed and approved by the board of Directors and thereafter submitted to a meeting of the membership of the Association for adoption or rejection.

ARTICLE IX

REGISTERED AGENT

The county in the State of Florida where the principal office for the transaction of the business of this Association is to be located is the County of Palm Beach. The name and address of this Association's registered agent is MORTON V. ELLISH, at 707 Rainberry Lake Drive, Delray Beach, Florida 33445.

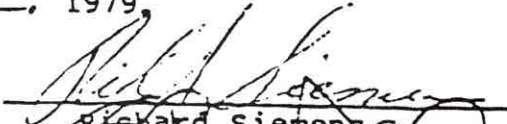
ARTICLE X

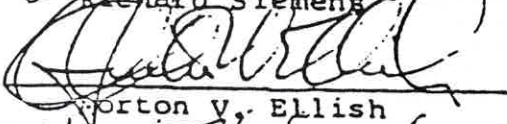
SUBSCRIBERS

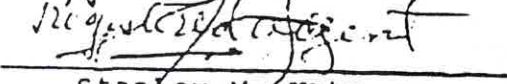
The names and addresses of the subscribers to these Articles of Incorporation are:

<u>NAME</u>	<u>ADDRESS</u>
RICHARD SIEMENS	711 N.W. 25th Avenue, Delray Beach, Florida 33445
MORTON V. ELLISH	707 Rainberry Lake Drive Delray Beach, Florida 33445
STANLEY M. KATZ	711 N.W. 25th Avenue, Delray Beach, Florida 33445

IN WITNESS WHEREOF, the said subscribers have hereunto set their hands this 18 day of October, 1979.

  
Richard Siemens

  
Morton V. Ellish  
Registered Agent

  
Stanley M. Katz

STATE OF FLORIDA  
COUNTY OF PALM BEACH

)  
) SS:

The foregoing instrument was acknowledged before me this  
*18* day of *October*, 1979, by RICHARD SIEMENS, MORTON V.  
ELLISH and STANLEY M. KATZ.

*[Handwritten Signature]*

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

Notary Public, State of Florida  
at Large. My Commission Expires  
MARCH 9, 1981. BONDED BY  
AUTO OWNERS INSURANCE CO.

FILED  
OCT 25 11 37 AM '79  
SECRETARY OF STATE  
MIAMI, FLORIDA

JOINDER

Centex Homes of Florida, Inc., a Nevada corporation, hereby joins in the execution of the Declaration of Use and Obligations of Rainberry Lake attached hereto in that as of date hereof it has acquired a portion of the property subject to the Declaration, which is located West of the center line of Rainberry Lake and East of Davis Road, North of Lake Ida Road and South of Lake Worth Drainage District Canal L-30. The Association that will be responsible for the operation and administration of the homes to be constructed upon the property acquired by Centex shall be "The Villas of Rainberry Homeowners Association, Inc., a Florida non-profit corporation.

DATED this 16 day of October, 1979.

CENTEX HOMES OF FLORIDA, INC.

By Henry E. Marks  
Henry E. Marks, Vice President

STATE OF FLORIDA . )  
COUNTY OF Dade : ss.

BEFORE ME, the undersigned authority, personally appeared Henry E. Marks as Vice President of CENTEX HOMES OF FLORIDA, INC., a Florida corporation, to me well known, who acknowledged before me that he executed the foregoing joinder for the purposes therein described.

WITNESS my hand and official seal in Dade County, Florida, this 16 day of October, 1979.

Lee Atkins  
Notary Public, State of Florida  
at Large

My Commission Expires:

MY COMMISSION EXPIRES  
FEBRUARY 29, 1980



RECREATION AREA AGREEMENT B3176 P0893EXHIBIT II.

THIS AGREEMENT made and entered into this 26th day of October, 1979, by and among RSM DEVELOPERS & ASSOCIATES, LTD., a Florida Limited Partnership (hereinafter called "RSM"), and CAROLE SIEMENS, as Trustee, and CENTEX HOMES OF FLORIDA, INC., a Nevada corporation, authorized to do business in the State of Florida (hereinafter called "Centex"), and LAKESBERRY DEVELOPERS, INC., a Florida corporation (hereinafter called "Lakesberry"), and RAINBERRY LAKE HOMEOWNERS ASSOCIATION, INC., a non-profit Florida corporation (hereinafter called "Rainberry Association"), and THE VILLAS OF RAINBERRY HOMEOWNERS ASSOCIATION, INC., a non-profit Florida corporation (hereinafter called "Centex Association").

W I T N E S S E T H :

WHEREAS, CAROLE SIEMENS, as Trustee, is the owner of the land described on Exhibit L-1; and

WHEREAS, Lakesberry has an option to acquire the land described on Exhibit L-2 from Melvin I. Muroff, as Trustee (present owner of land described on Exhibit L-2); and

WHEREAS, RSM DEVELOPERS & ASSOCIATES, LTD. is the owner of land described on Exhibit L-3; and

WHEREAS, RSM has entered into a contract to acquire all of the residential lots located on the land described on Exhibits L-1 and L-2 as well as the common recreation area located thereon; and

WHEREAS, Centex is the owner of the land described in Exhibits "C" and "D"; and

WHEREAS, RSM is in the process of constructing homes on land described on Exhibit L-3 as well as on the land described on Exhibit L-1 and in connection therewith has agreed to install certain recreational improvements, including tennis courts, swimming

This Instrument Prepared By:  
ROBERT L WEISSLER, ESQ.  
WILLIAMS, SALOMON, KANNER,  
DAMIAN, WEISSLER & BROOKS  
1003 du Pont  
Miami, FL 33121

pool, and other amenities which shall be located on Recreation Tracts "A", "B" and "C", as shown on the Plat of Rainberry Lake Phase 2, according to the Plat thereof, recorded in Plat Book 37, at Page 94 of the Public Records of Palm Beach County, Florida, and the Recreation Area shown on the Plat of Rainberry Lake Phase III-A, to be recorded among the Public Records of Palm Beach County, Florida, designated as Recreation Area Tract "J" and Recreation Area Tract "K", as shown on the Plat of Rainberry Lake Phase IV-A, to be recorded among the Public Records of Palm Beach County, Florida, and the entrance feature, guard house and road, which together with the aforescribed Recreation Tracts have been conveyed to the Associations (all together being referred to herein as the Recreation Areas"); and

WHEREAS, Rainberry Association is the association in connection with the Rainberry Lake development being built by RSM and which association is charged with the operation and government of the homes being built in the said development (which development is to be built on the land described on Exhibits L-1, L-2, and L-3), which homeowners shall be given the right to jointly (together with the homeowners in the Centex Development) use said Recreation Areas, and which association is charged with the operation and government of the Recreation Areas referred to in the preceding paragraph together with Centex Association; and

WHEREAS, Centex intends to develop the land described on Exhibits "C" and "D" (Centex Development) and construct and sell homes thereon, the purchasers of said homes to be given the joint right (together with the homeowners of the Rainberry Lake Development) to use the Recreation Areas, and Centex Association is the association charged with the responsibility for the government, operation and management of the Centex Development and Centex Association is charged with the operation and government of the Recreation Areas together with Rainberry Association.

NOW, THEREFORE, in consideration of these mutual covenants, it is hereby agreed among the parties, as follows:

1. RSM agrees to develop and construct upon the Recreation

Areas certain recreational facilities substantially in accordance with plan shown on Exhibit "R" and title to the Recreation Areas has been conveyed to the Associations in the following proportions:

- (a) Rainberry Association - 32.74%
- (b) Centex Association - 67.26%

2. Rainberry Association and Centex Association agree to operate and govern for the benefit of the respective members of the Associations, the Recreation Areas recreational facilities.

3. Rainberry Association and Centex Association accept the conveyance of title to the Recreation Areas and the personal property located thereon, and thereafter (provided the pools, tennis courts, other improvements described on Exhibit "R" have been completed) to be fully responsible for the operation of the Recreation Areas and all expenses incurred in the operation, maintenance, replacement, taxes, insurance and other items of expense, except that in no event shall Centex Association be responsible for any portion of said expenses of maintenance until April 16, 1980, at which time it shall begin paying its share of the maintenance. Rainberry Association and Centex Association agree to contribute to the maintenance of the Recreation Areas in the same proportions as are set forth in Paragraph 1 hereof. Each Association agrees to assess its members and shall collect from same sufficient moneys to pay for the expenses described in this paragraph. The individual members of each of said Associations, being the owners of the lots, shall have the responsibility of paying their share of the maintenance to their Association in accordance with their obligation to pay maintenance to their Association.

4. The associations agree to create a Governing Board of the Recreation Areas by appointing six (6) members to the Governing Board, Centex Association having the right to appoint four (4) members and Rainberry Association having the right to appoint two (2) members. Said members of the Governing Board shall be appointed by the respective

B3176 P0896

Boards of Directors of said Associations. The Recreation Areas Governing Board shall have full responsibility for the operation and control of the Recreation Areas and shall promulgate Rules and Regulations (a) for the use of the Recreation Areas in general and (b) for the use of the Recreation Areas by guests of residents, and shall prepare, not less than once annually, an Operating Budget and to divide the Budget into the percentages that each of the Associations owns the Recreation Areas and to collect the same from their individual members in the manner provided in their respective Declarations, Charters and By-Laws. The Governing Board is empowered to restrict the use of the facilities as to any person or persons failing or refusing to pay their share of the assessments and the Governing Board is directed so to do upon the expressed instructions from either of the Associations with respect to their members. The governing board shall act by and through a majority of its members. The Associations shall establish a joint account into which the monthly assessments for the Recreation Areas shall be deposited and all of the various expenses shall be paid therefrom, upon the joint signatures of one of the governors from the Centex Association and one of the governors from the Rainberry Association. Provided, however, that until such time as the Centex Association commences its maintenance payments as hereinabove provided for, the Rainberry Association shall pay all of the expenses directly without setting up the foregoing fund.

5. While the Governing Board of the Recreation Areas are not at present contemplated to be an incorporated association, nevertheless, they are empowered, with the consent of each of the respective Associations, to form themselves into a corporation so long as the purposes and powers of the corporation are in conformance with this Agreement.

B3176 P0891

IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above wirtten.

WITNESSES:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

RSM DEVELOPERS & ASSOCIATES, LTD.  
By RSM DEVELOPERS, INC., General Partner

By [Signature]  
Richard Siemens, Vice President

[Signature]  
Carole Siemens, Trustee

CENTEX HOMES OF FLORIDA, INC.

By [Signature]  
Henry E. Marks, Vice President

LAKESBERRY DEVELOPERS, INC.

By [Signature]  
Paul Stein, President

RAINBERRY LAKE HOMEOWNERS ASSOCIATION, INC.

By [Signature]  
Richard Siemens, Vice President

THE VILLAS OF RAINBERRY HOMEOWNERS ASSOCIATION, INC.

By [Signature]  
William Beinstein, President

*[Handwritten notes]*

STATE OF FLORIDA )  
 : SS.:  
COUNTY OF DADE )

83176 P0898

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared RICHARD SIEMENS, Vice-President of RSM DEVELOPERS, INC., a Florida corporation, General Partner of RSM DEVELOPERS & ASSOCIATES, LTD., to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same as and for the act and deed of RSM DEVELOPERS, INC., as General Partner of RSM DEVELOPERS & ASSOCIATES, LTD.

Witness my hand and official seal in the County and State last aforesaid this 26 day of OCTOBER, 1979.

Sue Atkins  
Notary Public, State of Florida  
at Large

My Commission Expires:  
MY COMMISSION EXPIRES  
FEBRUARY 29, 1980

STATE OF FLORIDA )  
 : SS.:  
COUNTY OF DADE )

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared CAROLE SIEMENS, as Trustee, to me known to be the person described in and who executed the foregoing instrument and she acknowledged before me that she executed the same.

Witness my hand and official seal in the County and State last aforesaid this 26 day of OCTOBER, 1979.

Sue Atkins  
Notary Public, State of Florida  
at Large

My Commission Expires:  
MY COMMISSION EXPIRES  
FEBRUARY 29, 1980

STATE OF FLORIDA )  
 : SS.:  
COUNTY OF DADE )

BEFORE ME, the undersigned authority, personally appeared HENRY E. MARKS as Vice President of CENTEX HOMES OF FLORIDA, INC., a Florida corporation, to me well known, who acknowledged to and before me that he executed the foregoing agreement for the purposes therein described.

WITNESS my hand and official seal at Palm Beach County, Florida, this 26 day of OCTOBER, 1979.

Sue Atkins  
Notary Public, State of Florida  
at Large

My Commission Expires:  
MY COMMISSION EXPIRES  
FEBRUARY 29, 1980

-6- WMP JH

JOINDER

Melvin I. Muroff, as Trustee and Individually, hereby joins in the execution of the above Recreation Area Agreement in that as of date hereof he is the owner of a portion of the property subject to the Agreement.

  
Melvin I. Muroff, as Trustee and Individually

STATE OF FLORIDA        )  
                                  : ss.  
COUNTY OF                )

BEFORE ME, the undersigned authority, personally appeared MELVIN I. MUROFF, as Trustee and Individually, to me well known and who acknowledged to and before me that he executed the foregoing Joinder for the purposes therein described.

WITNESS my hand and seal at Dade County, Florida, this 26 day of Oct., 1979.

  
Notary Public, State of Florida at Large

My Commission Expires:  
Notary Public, State of Florida at Large  
My Commission Expires August 21, 1983  
Bonded by: Maynard Bonding Agency



STATE OF FLORIDA )  
 : ss.:  
COUNTY OF *DADE* )

BEFORE ME, the undersigned authority, personally appeared  
PAUL STEIN as President of LAKESBERRY  
DEVELOPERS, INC., a Florida corporation, to me well known, who ack-  
nowledged to and before me that he executed the foregoing agreement  
for the purposes therein described.

WITNESS my hand and official seal at *DADE* County,  
Florida, this *26* day of *OCTOBER*, 1979.

*Sue Atkins*  
Notary Public, State of Florida  
at Large

My Commission Expires:  
MY COMMISSION EXPIRES  
FEBRUARY 29, 1980

STATE OF FLORIDA )  
 : ss.:  
COUNTY OF *DADE* )

BEFORE ME, the undersigned authority, personally appeared  
RICHARD SIEMENS as Vice President of RAINBERRY LAKE  
HOMEOWNERS ASSOCIATION, INC., a Florida corporation, to me well known,  
who acknowledged to and before me that he executed the foregoing agree-  
ment for the purposes therein described.

WITNESS my hand and official seal at *DADE*  
County, Florida, this *26* day *OCTOBER*, 1979.

*Sue Atkins*  
Notary Public, State of Florida  
at Large

My Commission Expires:  
MY COMMISSION EXPIRES  
FEBRUARY 29, 1980

STATE OF FLORIDA )  
 : ss.:  
COUNTY OF )

BEFORE ME, the undersigned authority, personally appeared  
WILLIAM BEINSTEIN as President of THE VILLAS OF RAIN-  
BERRY HOMEOWNERS ASSOCIATION, INC., a Florida corporation, to me  
well known, who acknowledged to and before me that he executed the  
foregoing agreement for the purposes therein described.

WITNESS my hand and official seal at  
County, Florida, this *26* day *OCTOBER*, 1979.

*Harold C. Lovinger*  
Notary Public, State of Florida  
at Large

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXPIRES APRIL 1 1980  
BONDED THRU GENERAL INS. UNDERWRITERS

*128 WMP*  
*P J*



DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS FOR  
RAINBERRY LAKE HOMES

RECREATION AREA AGREEMENT

EXHIBIT L-1

PARCEL "A"

A portion of the East One- (E 1/2) of Sec. , Township 46  
South, Range 43 East, more particularly described as follows:

Commencing at the Northeast corner of said Section 7; thence run  
N 89° 54' 30" W 53.00 feet along the North line of said Section 7,  
to a point; thence run S 0° 23' 20" W 1222.21 feet, along the  
Westerly right-of-way line of Congress Avenue as laid out and now  
in use, to a point of curvature of a curve concave to the West;  
thence run Southwesterly along said Westerly right-of-way line and  
1253.23 feet along the arc of said curve having for its elements  
a radius of 3766.80 feet and a central angle of 19° 03' 45", to a  
point of tangency; thence run S 18° 40' 25" W 718.02 feet, along  
said Westerly right-of-way line to the Point of Beginning; thence  
continue S 18° 40' 25" W 920.45 feet along said Westerly right-of-  
way, line to a point of intersection with the Northerly right-of-  
way line of Lake Ida Road as shown on the Plat of DELRAY SHORES,  
according to the plat thereof recorded in Plat Book 24, Page 233,  
of the Public Records of Palm Beach County, Florida; thence run N  
64° 09' 50" W 54.16 feet along said Northerly right-of-way line to  
a point of curvature of a curve concave to the Southwest; thence run  
Northwesterly 743.87 feet along said Northerly right-of-way line and  
along the arc of said curve having for its elements a radius of  
1649.66 feet and a central angle of 25° 50' 10" to a point of  
tangency; thence run West 250.00 feet, along said Northerly right-of-  
way line to a point; thence run North 683.50 feet to a point;  
thence run East 1312.37 feet to the Point of Beginning; containing  
an area of 20.00 acres more or less.

LESS

A portion of the East One-Half (E 1/2) of Section 7, Township 46  
South, Range 43 East, more particularly described as follows:

Commencing at the Northeast corner of said Section 7; thence run  
N 89° 54' 30" W 53.00 feet along the North line of said Section 7  
to a point; thence run S 0° 23' 20" E 1222.21 feet along the  
Westerly right-of-way line of Congress Avenue as laid out and now  
in use to a point of curvature of a curve concave to the West;  
thence run Southwesterly 1253.23 feet along said Westerly right-of-  
way line and along the arc of said curve having for its elements a  
radius of 3766.80 feet and a central angle of 19° 03' 45" to a  
point of tangency; thence run S 18° 40' 25" W 718.02 feet along  
said Westerly right-of-way line to the Point of Beginning; thence  
continue S 18° 40' 25" W 920.45 feet, along said Westerly right-of-  
way line to a point of intersection with the Northerly right-of-way line

DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS FOR  
RAINBERRY LAKE HOMES

EXHIBIT L-1      PARCEL "A"      (Continued)

of Lake Ida Road as shown on the Plat of DELRAY SHORES according to the plat thereof recorded in Plat Book 24, Page 233 of the Public Records of Palm Beach County, Florida, thence run N 64° 09' 50" W 54.16 feet along said Northerly right-of-way line to a point of curvature of a curve concave to the Southwest; thence run Northwesterly 307.80 feet along said Northerly right-of-way line and along the arc of said curve having for its elements a radius of 1649.66 feet, a central angle of 10° 41' 26" and a chord bearing of N 69° 29' 18" W to a point; thence run N 18° 40' 25" E 781.96 feet to a point; thence run East 381.00 feet to the Point of Beginning; containing an area of 7.00 acres more or less.

PARCEL "B"

A portion of land lying in the East 1/2 of Section 7, Township 46 South, Range 43 East, Palm Beach County, Florida, more particularly described as follows:

Commence at the Northeast corner of said Section 7; thence S 0° 23' 58" E along the East line of said Section 7, for 110.00 feet; thence N 89° 55' 47" W for 53.00 feet to the Westerly right-of-way of Congress Avenue as now laid out and used; thence S 0° 23' 58" E, along the Westerly right-of-way of Congress Avenue as laid out and now in use for 1112.16 feet to a point of curvature; thence 980.27 feet along a curve to the right having a radius of 3766.80 feet and a central angle of 14° 54' 38" to the Southeast corner of "The Pines of Delray North", according to the plat thereof as recorded in Plat Book 35, Pages 145 and 146 of the Public Records of Palm Beach County, Florida; thence departing from said right-of-way line on a non-radial line along the South boundary of said plat, N 89° 55' 47" W a distance of 446.08 feet to the Point of Beginning of this description; thence continue N 89° 55' 47" W, a distance of 1144.92 feet along said Southerly boundary to the Southwest corner of said Plat;

- thence S 01° 46' 26" W, a distance of 944.96 feet;
- thence N 89° 59' 17" E, a distance of 1021.20 feet;
- thence N 00° 04' 13" E, a distance of 182.17 feet;
- thence N 89° 55' 47" W, a distance of 4.07 feet;
- thence N 00° 04' 13" E, a distance of 145.00 feet;
- thence S 89° 55' 47" E, a distance of 33.84 feet;
- thence N 18° 39' 42" E, a distance of 382.81 feet;
- thence N 00° 04' 13" E, a distance of 253.07 feet; to the Point of Beginning.

Parcel containing 23.45 acres, more or less.

*[Handwritten signatures and initials]*

EXHIBIT L-1

PARCEL "C"

A parcel of land being in the east one-half (E ½) of Section 7, Township 46 South, Range 43 East, City of Delray Beach, Palm Beach County, Florida, more particularly described as follows:

Commence at the Northeast (NE) corner of said Section 7; thence N 89° 55' 47" W along the North line of said section 7 a distance of 53.00 feet to the westerly right-of-way line of Congress Avenue (a 106 foot wide right-of-way as laid out and now in use); thence S 0° 23' 58" E along said westerly right-of-way line a distance of 1222.16 feet to a point of curvature of a curve concave to the west, having a radius of 3766.80 feet; thence south-westerly along said westerly right-of-way line and along the arc of said curve a distance of 1253.14 feet through a central angle of 19° 03' 40" to a point of tangency; thence S 18° 39' 42" W along said westerly right-of-way line a distance of 718.60 feet; thence S 89° 15' 17" W a distance of 381.00 feet to a point of beginning of the herein described parcel of land; thence N 73° 10' 11" W a distance of 60.00 feet; thence N 89° 55' 47" W a distance of 122.94 feet; thence S 36° 57' 25" W a distance of 21.98 feet; thence N 89° 59' 17" E a distance of 193.58 feet to the point of beginning; containing 0.06 acres, more or less.

LESS:

Lots 1, 2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 19, 20 and 21

of Rainberry Lake  
Phase Two, according to the Plat thereof recorded in Plat Book  
37, Pages 94 and 95 of the Public Records of Palm Beach County,  
Florida.

*12-5-51*  
*[Handwritten signature]*

RECREATION AREA AGREEMENT

EXHIBIT L-2

A portion of land lying in the East 1/2 of Section 7, Township 46 South, Range 43 East, Palm Beach County, Florida, more particularly described as follows:

Commence at the Northeast corner of said Section 7; thence S 0°23'58" E along the East line of said Section 7, for 110.00 feet; thence N 89°55'47" W for 53.00 feet to the Westerly right-of-way line of Congress Avenue as now laid out and used; thence S 0°23'58" E along the Westerly right-of-way of Congress Avenue as laid out and now in use for 1112.16 feet to a point of curvature; thence 980.27 feet along a curve to the right having a radius of 3766.80 feet and a central angle of 14°54'38" to the Southeast corner of the Pines of Delray North-Section 1 according to the plat thereof, as recorded in Plat Book 35, Pages 145 and 146 of the Public Records of Palm Beach County, and said corner being the point of beginning of the following parcel of land; thence departing from said right-of-way on a non-radial line along the South boundary of said Plat N 89°55'47" W, a distance of 446.08 feet; thence S 00°04'13" W a distance of 253.07 feet;

thence S 18°39'42" W a distance of 382.81 feet;

thence N 89°55'47" W a distance of 33.84 feet;

thence S 00°04'13" W a distance of 145.00 feet;

thence S 89°55'47" E a distance of 4.07 feet;

thence S 00°04'13" W a distance of 182.17 feet;

thence N 89°59'17" E a distance of 291.24 feet;

to the Westerly right-of-way line of said Congress Avenue; thence N 18°39'42" E along said right-of-way line 718.60 feet to a point of curvature; thence Northeasterly 272.88 feet along a curve to the left having a radius of 3766.80 feet and a central angle of 04°09'02" to the point of beginning.

Parcel containing 8.09 acres more or less.

Bearings shown hereon are based on said East line of Section 7 being S 0°23'58" E.

*Handwritten signature:*  
 J. M. ...  
 J. M. ...

RECREATION AREA AGREEMENT

EXHIBIT L-3

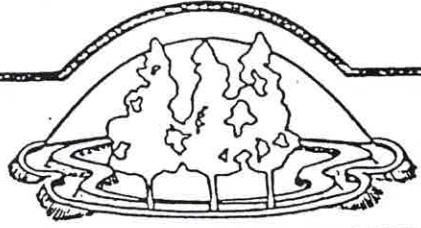
Lots 1, 2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 19, 20 and 21  
of Rainberry Lake  
Phase Two, according to the Plat thereof recorded in Plat Book  
37, Pages 94 and 95 of the Public Records of Palm Beach County,  
Florida.

*[Handwritten signature]*

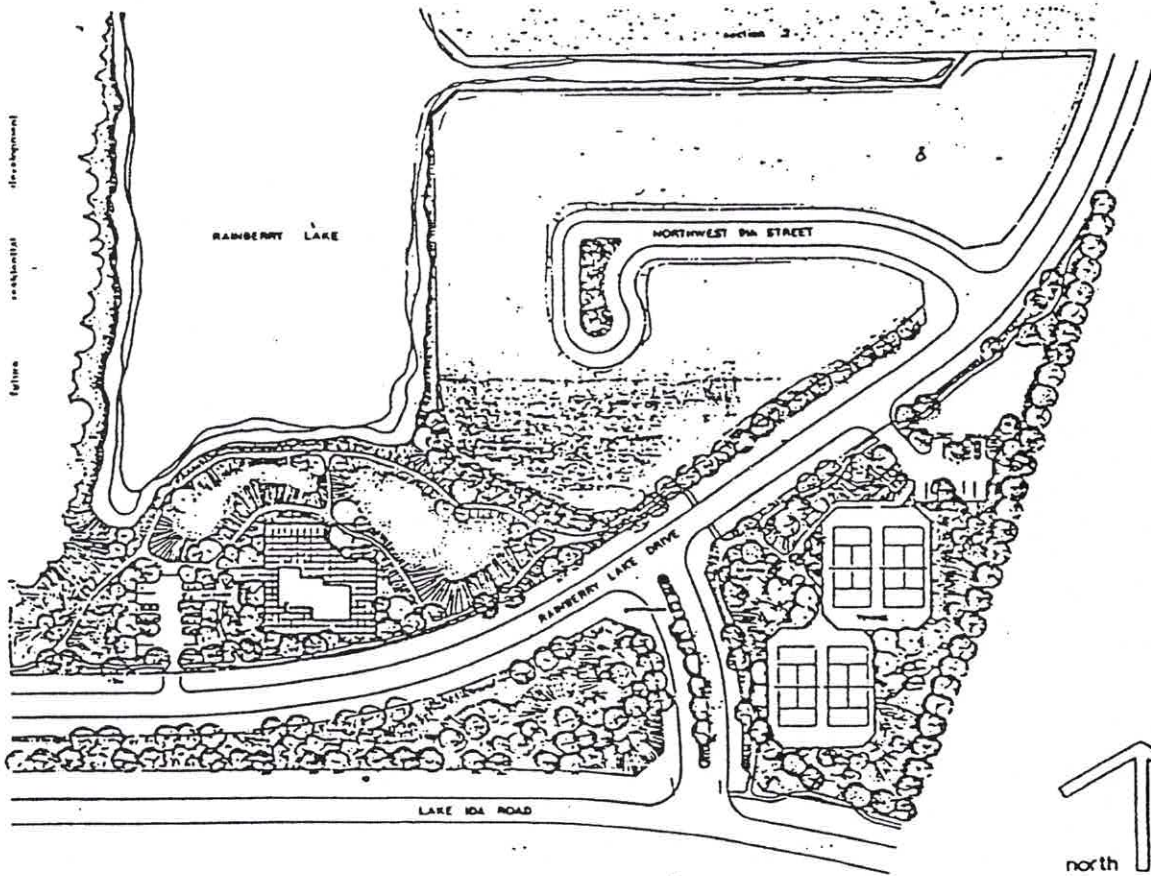
EXHIBIT "R" :

This exhibit is intended to describe the recreation facilities and their approximate locations, together with the parking for same. Landscaping may vary substantially in type and amount.

# Rainberry Lake



## section 1



*Handwritten notes:*  
12-10-77  
M. W. [unclear]  
[unclear]

EXHIBIT "C"

The Westerly 125 feet and the South 320 feet of the West 655 feet of the following described property:

All that portion of the East 1/2 of Section 7, Township 46 South, Range 43 East, lying West of the Westerly right-of-way of Congress Avenue as laid out and now in use, and North of the Northerly right-of-way of Lake Ida Road as shown on Plat of Delray Shores, Sheets 1 and 2, as recorded in Plat Book 24, pages 232 and 233, Public Records of Palm Beach County, Florida, LESS the right-of-way of Lake Worth Drainage District lateral canal no. 30, and LESS the West 40 feet for Davis Road right-of-way.

*msb*  
*12/1/03*

DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS FOR  
RAINBERRY LAKE HOMES

EXHIBIT "D"

A portion of land lying in Section 7, Township 46 South, Range 43 East more particularly described as follows:

As a point of reference commence at the Northeast Corner of Section 7, Township 46 South, Range 43 East, thence S 00°23'58"E along the East line of said Section 7 a distance of 90.00 feet to the Southerly right-of-way of Lake Worth Drainage District Canal L-30; thence N 89°55'47"W along said Southerly right-of-way a distance of 1688.97 feet to the point of beginning; thence S 01°49'51"W a distance of 2103.36 feet to the Southwest corner of the Pines of Delray North-Section 1, according to the Plat thereof as recorded in Plat Book 35, pages 145 and 146 of the Public Records of Palm Beach County, Florida; thence S 01°46'26"W a distance of 944.96 feet; thence S 00°01'20"E a distance of 683.34 feet to the Northerly right-of-way of Lake Ida Road as now laid out and in use; thence S 89°58'40"W along said Northerly right-of-way a distance of 857.10 feet to the Easterly right-of-way of Davis Road as now laid out and in use; thence N 00°00'00"E along said Easterly right-of-way a distance of 3731.64 feet to the Southerly right-of-way of said Lake Worth Drainage District Canal L-30; thence S 89°55'47"E along said Southerly right-of-way a distance of 953.29 feet to the Point of Beginning, LESS the following:

The Westerly 125 feet and the South 820 feet of the West 655 feet of the following described property:

All that portion of the East 1/2 of Section 7, Township 46 South, Range 43 East, lying West of the Westerly right-of-way of Congress Avenue as laid out and now in use, and North of the Northerly right-of-way of Lake Ida Road as shown on Plat of Delray Shores, Sheets 1 and 2, as recorded in Plat Book 24, pages 232 and 233, Public Records of Palm Beach County, Florida, LESS the right-of-way of Lake Worth Drainage District lateral canal no. 30, and LESS the West 40 feet for Davis Road right-of-way.



B3176 P0909

SCHEDULE "R"DECLARATION OF RESTRICTONS AND PROTECTIVE COVENANTSFOR RAINBERRY LAKES HOMES

A PORTION OF LAND LYING IN RAINBERRY LAKE, PHASE II ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 37, PAGES 94 AND 95 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A POINT OF REFERENCE BEING THE SOUTHWEST CORNER OF THE AFOREMENTIONED PLAT OF RAINBERRY LAKE PHASE II, AND SAID POINT LYING ON THE NORTHERLY RIGHT-OF-WAY OF LAKE IDA ROAD (80' RIGHT-OF-WAY AS NOW LAID OUT AND IN USE): THENCE N00°04'13"E ALONG THE WEST LINE OF AFOREMENTIONED PLAT A DISTANCE OF 66.35 FEET TO THE POINT OF BEGINNING; THENCE NORTHEASTERLY A DISTANCE OF 179.05 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 630.00 FEET, A CENTRAL ANGLE OF 16°17'02", A CHORD DISTANCE OF 178.45 FEET AND A CHORD BEARING N 64°51'06"E TO A POINT OF TANGENCY: THENCE N 56°42'32"E, A DISTANCE OF 4.64 FEET: THENCE S 72°43'40"E, A DISTANCE OF 38.62 FEET TO A POINT ON A CURVE: THENCE SOUTHEASTERLY A DISTANCE OF 104.00 FEET ALONG THE ARC OF A CURVE HAVING A RADIUS OF 310.00 FEET: A CENTRAL ANGLE OF 19°13'19", A CHORD LENGTH OF 103.49 FEET AND A CHORD BEARING S 12°33'25"E: THENCE S46°19'47"W, A DISTANCE OF 37.89 FEET: THENCE S 5°36'06"W, A DISTANCE OF 14.00 FEET TO THE NORTHERLY RIGHT-OF-WAY OF SAID LAKE IDA ROAD AND A POINT ON A CURVE: THENCE SOUTHEASTERLY A DISTANCE OF 140.47 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1649.66 FEET, A CENTRAL ANGLE OF 4°52'43", A CHORD LENGTH OF 140.43 FEET AND A CHORD BEARING S 81°57'32"E; THENCE N 10°28'49"E, A DISTANCE OF 14.00 FEET: THENCE N 39°23'31"W, A DISTANCE OF 32.22 FEET TO A POINT ON A CURVE: THENCE NORTHWESTERLY A DISTANCE OF 186.81 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 402.00 FEET, A CENTRAL ANGLE OF 26°37'33", A CHORD LENGTH OF 185.11 FEET AND A CHORD BEARING N 12°34'46"W; THENCE N 15°24'33"E, A DISTANCE OF 33.00 FEET: THENCE N 33°17'28"W, A DISTANCE OF 60.00 FEET: THENCE S 56°42'32"W, A DISTANCE OF 148.44 FEET TO A POINT OF CURVATURE: THENCE SOUTHWESTERLY A DISTANCE OF 143.47 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 570.00 FEET, A CENTRAL ANGLE OF 14°25'17", A CHORD LENGTH OF 143.09 FEET AND A CHORD BEARING S 63°55'10"W; THENCE S 00°04'13"W, A DISTANCE OF 63.08 FEET TO THE POINT OF BEGINNING.

RECORD VERIFIED  
PALM BEACH COUNTY, FLA  
JOHN B. DUNKLE  
CLERK CIRCUIT COURT

BY-LAWS

OF

RAINBERRY LAKE HOMES ASSOCIATION, INC.

## ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to the RAINBERRY LAKE HOMES ASSOCIATION, INC., a non-profit corporation organized and existing under the laws of the State of Florida.

Section 2. The "Properties" shall mean and refer to The Properties as defined in the Declaration of Restrictions and Protective Covenants for Rainberry Lake Homes dated 1979 and recorded November 16, , 1979 in Official Records Book 3176 at Page 0860 of the Public Records of Palm Beach County, Florida.

Section 3. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot within The Properties.

Section 4. "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section 1, of the Articles of Incorporation of the Association.

## ARTICLE II

LOCATION

Section 1. The principal office of the Association shall be located at 707 Rainberry Lake Drive, Delray Beach, Florida 33445.

## ARTICLE III

MEMBERSHIP

Section 1. Membership of the Association is as set forth in Article III, Section 1, of the Articles of Incorporation of the Association.

Section 2. The rights of membership are subject to the payment of annual and special assessments levied by the Association, the obligation of which assessment is imposed against each Owner of, and becomes a lien upon, the Properties against which such assessments are made as provided by Article V of the Declaration of Restrictions and Protective Covenants for Rainberry Lake Homes to which the

Properties are subject.

## ARTICLE IV

### BOARD OF DIRECTORS

Section 1. The directors of the Association shall be elected at the annual meeting of the members as specified in the Articles of Incorporation. The election shall be decided by majority vote.

Section 2. Any director may be removed from office at any time with or without cause by the affirmative majority vote of the Association membership, except that the directors elected by the Class B member may be removed only by the Class B member and except that the directors named in the Articles of Incorporation may not be removed until the expiration of their terms.

Section 3. The first meeting of the duly elected Board of Directors, for the purpose of organization, shall be held immediately after the annual meeting of members, provided the majority of the members of the Board elected be present. Any action taken at such meeting shall be by a majority of the whole Board. If the majority of the members of the Board elected shall not be present at that time, or if the directors shall fail to elect officers, the meeting of the Board to elect officers shall then be held within thirty days after the annual meeting of members upon three days' notice in writing to each member of the Board elected, stating the time, place and object of such meeting.

Section 4. Regular meetings of the Board of Directors may be held at any place or places within Palm Beach County, Florida, on such days and at such hours as the Board of Directors may, by resolution, appoint.

Section 5. No notice shall be required to be given of any regular meeting of the Board of Directors.

Section 6. Special meetings of the Board of Directors may be called at any time by the President or by any two members of the Board and may be held at any place or places within Palm Beach County, Florida, and at any time.

Section 7. Notice of each special meeting of the Board of Directors, stating the time, place and purpose or purposes thereof, shall be given by or on behalf of the President or by or on behalf of the Secretary or by or on behalf of any two members of the Board to each member of the Board not less than three days by mail or one day by telephone or telegraph. Special meetings of the Board may also be held at any place and time without notice by unanimous waiver of notice by all the directors.

ORE 6249 P3 804

I HEREBY CERTIFY that the Amendment attached as Exhibit "1" to this Certificate was duly adopted as an Amendment to the Bylaws of Rainberry Lake Homeowners Association, Inc. The original Declaration of Restrictions and Protective Covenants is recorded in Official Records Book 3176, at Page 0860 of the Public Records of Palm Beach County, Florida.

DATED this 30<sup>th</sup> day of May, 1991.

Rainberry Lake Homeowners Association, Inc.

Arnold R. Stanley  
Witness

By: David H. Stanley Jr.  
President

Gary Mann  
Witness

Denise Theroff  
Secretary

(Seal)

STATE OF FLORIDA )  
COUNTY OF PALM BEACH ) ss

BEFORE ME personally appeared David Stanley Jr., President and Denise Theroff, Secretary of Rainberry Lake Homeowner Association, Inc., and known to me to be the individuals who executed the foregoing instrument and acknowledged to and before me that they executed such instrument as President and Secretary of the Association with due and regular corporate authority, and that said instrument is the free act and deed of the Association.

WITNESS my hand and official seal this 30<sup>th</sup> day of May, A.D. 1991.

Donna K. McDonald Challenger  
Notary Public  
State of Florida at Large  
My Commission Expires: 09-19-93

This instrument prepared by:  
Edward Dicker, Esquire  
ST. JOHN & KING  
500 Australian Avenue So., Suite 600  
West Palm Beach, Florida 33401  
(407) 655-8994

RAINBERRY LAKES HOMEOWNERS ASSOCIATION, INC.

PROPOSED AMENDMENT TO THE BY-LAWS OF  
RAINBERRY LAKES HOMEOWNERS ASSOCIATION, INC.

ARTICLE VI, Section 1. Shall be deleted in its entirety and amended to reflect the following:

ARTICLE VI, Section 1. of the By-Laws of the  
Rainberry Lakes Homeowners Association, Inc.  
shall be amended to read as follows:

Section 1. The regular meeting of the members shall be held on the fourth Tuesday of the month of February in each year beginning in 1992, at such time and place as shall be determined by the Board of Directors.

NOTICE REGARDING EFFECTIVE DATE: This Amendment is effective when recorded in the Public Records of Palm Beach County, Florida.

Except as otherwise amended hereby, the By-Laws of the Association shall remain unchanged and in full force and effect.

Exhibit 1

RECORD VERIFIED  
PALM BEACH COUNTY, FLA  
JOHN J. STALE  
CLERK CIRCUIT COURT

## ARTICLE V

OFFICERS

Section 1. Any officer may be removed at any time by the affirmative vote of a majority of the Board of Directors at any duly called regular or special meeting of the Board.

Section 2. The president shall be the chief executive officer of the Association. The President shall preside at all meetings of the members of the Association and of the Board of Directors. He shall have the general powers and duties of supervision and management of the Association which usually pertain to his office, and shall perform all such duties as are properly required of him by the Board of Directors. The Board of Directors shall elect one Vice President, who shall have such powers and perform such duties as usually pertain to such office or as are properly required of him by the Board of Directors. In the absence or disability of the President, the Vice President shall perform the duties and exercise the powers of the President. The Secretary shall issue notices of all meetings of the membership of the Association and the directors where notice of such meetings are required by law or in these By-Laws. He shall keep the minutes of the meetings of the membership and of the Board of Directors.

Section 3. The Treasurer shall have the care and custody of all the monies and securities of the Association. He shall enter on the books of the Association, to be kept by him for the purpose, full and accurate accounts of all monies received by him and paid by him on account of the Association. He shall sign such instruments as require his signature and shall perform all such duties as usually pertain to his office or as are properly required of him by the Board of Directors.

Section 4. Vacancies in any office arising from any cause may be filled by the Board of Directors at any regular or special meeting.

## ARTICLE VI

MEETINGS OF MEMBERS

Section 1. The regular annual meeting of the members shall be held on the fourth Tuesday of the month of March in each year beginning in 1980, at such time and place as shall be determined by the Board of Directors.

Section 2. Special meetings of the members for any purpose may be called at any time by the President, the Vice President, the Secretary or Treasurer, or by any two or more members of the Board of Directors, or upon written request of the members who have a right

to vote one-fourth of all the votes of the entire membership, or who have a right to vote one-fourth of the votes of the Class A membership.

Section 3. Notice may be given to the member either personally, or by sending a copy of the notice through the mail, postage thereon fully paid, to his address appearing on the records of the Association. Each member shall register his address with the Secretary, and notices of meetings shall be mailed to him at such address. Notice of any meeting, regular or special, shall be mailed or personally delivered at least six days in advance of the meeting and shall set forth the general nature of the business to be transacted, provided, however, that if any business of any meeting shall involve any action governed by the Articles of Incorporation, notice of such meetings shall be given or sent as therein provided.

Section 4. The presence at the meeting of members entitled to cast 30% of the votes shall constitute a quorum for any action governed by these By-Laws.

## ARTICLE VII

### BOOKS AND PAPERS

Section 1. The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to the inspection of any member of the Association.

## ARTICLE VIII

### AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of members present in person or by proxy, provided that the notice to the members of the meeting disclosed the information that the amendment of the By-Laws was to be considered; provided, however, the provisions which are governed by the Articles of Incorporation of this Association may not be amended except as provided in the Articles of Incorporation or applicable law; and provided further that any matters stated herein to be or which are in fact governed by the Declaration of Restrictions and Protective Covenants referred to herein may not be amended except as provided in such covenants. Notwithstanding anything herein to the contrary, the Class B Member as described in the Articles of Incorporation of the Association shall be permitted to amend these By-Laws at any time and no amendment of these By-Laws may be made without the consent of the Class B Member.

Section 2. In case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in

the case of any conflict between said Declaration of Restrictions and Protective Covenants and these By-Laws, the said Declaration of Restrictions and Protective Covenants shall control.

\* \* \* \* \*

---



# State of Florida



## Department of State

I certify that the attached is a true and correct copy of the Articles of Incorporation of

RAINBERRY LAKE HOMEOWNERS ASSOCIATION, INC.

filed on the 25th day of October, A.D., 1979

The Charter Number for this corporation is 749505



CORP 104 Rev. 5-79

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
25th day of October, 1979

*Wayne*  
Secretary of State

ARTICLES OF INCORPORATION

OF

RAINBERRY LAKE HOMEOWNERS ASSOCIATION, INC.

FILED  
OCT 25 11 37 AM '78  
SECRETARY OF STATE  
MIAMI, FLORIDA

The undersigned subscribers, desiring to form a corporation not-for-profit under the Chapter 617, Florida Statutes, as amended, hereby adopt the following Articles of Incorporation

ARTICLE I

NAME

The name of the corporation shall be RAINBERRY LAKE HOMEOWNERS ASSOCIATION, INC., which is hereinafter referred to as "the Association."

ARTICLE II

PURPOSES and POWERS

The objects and purposes of the Association are those objects and purposes as are authorized by the Declaration of Restrictions and Protective Covenants for Rainberry Lake Homes to be recorded in the Public Records of Palm Beach County, Florida.

The Association is not organized for profit and no part of the net earnings, if any, shall inure to the benefit of any member or individual person, firm or corporation.

The Association shall have the power:

- A. To contract for the management of the Association and to delegate to the party with whom such contract has been entered the powers and duties of the Association except those which require specific approval of the Board of Directors or members.
- B. The Association shall have all of the common law and statutory powers of a corporation not-for-profit which are not in conflict with the terms of these Articles and the Restrictions and Protective Covenants above identified. The Association shall also have all of the powers necessary to implement the purposes of the Association.

ARTICLE III

MEMBERS

Section I. MEMBERSHIP. Every person or entity who is a record

owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessment by the Association shall be a member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member.

Section 2. VOTING RIGHTS. The Association shall have two classes of voting membership:

Class A. Class A members shall be all those owners as defined in Section 1 with the exception of the Developer as defined in the above-described Declaration of Restrictions and Protective Covenants, hereinafter referred to as "the Developer". Class A members shall be entitled to one vote for each lot in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any lot, all such persons shall be members, but the vote for such lot shall be exercised only by that one person designated in writing by all such members as they among themselves determine. In no event shall more than one vote be cast with respect to any such lot.

Class B. The Class B member shall be the Developer. The Class B member shall be entitled to one vote for each lot in which it holds the interest required for membership in Section 1, PROVIDED HOWEVER, that notwithstanding any provision to the contrary, the Developer shall have the right to elect a majority of the Board of Directors of the Association until such time as Developer no longer holds the title to any portion of the properties subject to the above described Declaration of Restrictions and Protective Covenants or to any additional property which may have been brought under the provisions thereof by recorded supplemental declarations.

Section 3. MEETINGS OF MEMBERS. The By-Laws of the Association shall provide for an annual meeting of members, and may make provision for regular and special meetings of members other than the annual meeting. A quorum for the transaction of business at any meeting of the members shall exist if thirty percent of the total number of members in good standing shall be present or represented at the meeting.

#### ARTICLE IV

##### CORPORATE EXISTENCE

The corporation shall have perpetual existence.

5400 Champion Blvd.  
Boca Raton FL  
33496

SPECIAL WARRANTY DEED

THIS INDENTURE, made and executed this 17<sup>th</sup> day of December, 1987, between:

CAROLE SIEMENS, as Trustee and Individually,  
hereinafter called "Grantor", and  
Rainberry Lake Homeowners Association, Inc., a Florida  
non-profit corporation

whose permanent address is:

Rainberry Lake Homeowners Association, Inc.  
P.O. Box 1299  
Delray Beach, Florida 33447

hereinafter called "Grantee".

88-001698  
10.00 Doc  
Con JOHN B DUNKLE, CLERK - PB COUNTY, FL .55

W I T N E S S E T H :

That Grantor, for and in consideration of the sum of \$10.00 and other good and valuable consideration, lawful money of the United States of America, to it in hand paid by the Grantee, the receipt of which is hereby acknowledged, has granted, bargained, sold, aliened, remised, released, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee and its successors and assigns forever all of the following parcels and tracts of land, situate lying and being in Palm Beach County, Florida, and more particularly described on Exhibit "A" attached hereto and made part hereof, hereinafter called "Property".

This conveyance is subject to taxes and assessments for 1987 and subsequent years, conditions, limitations, easements, agreements, covenants and restrictions of record, zoning ordinances and regulations.

Together with all and singular the tenements, hereditaments, and appurtenances thereto belonging or appertaining.

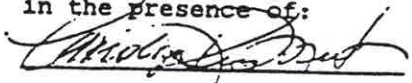
To have and to hold the Property with all appurtenances unto the Grantee its successors and assigns forever.

The Grantor hereby covenants with Grantee that she is lawfully seized of the Property in fee simple; that she has good right and lawful authority to sell and convey the Property in fee simple; that she hereby fully warrants the title to the Property and will defend the same against the lawful claims of all parties by, through or under Grantor, but not otherwise.

The Property is neither the homestead of the Grantor nor contiguous to the homestead of the Grantor.

IN WITNESS WHEREOF, Grantor has hereunto executed these presents for the purposes expressed herein.

Signed, sealed and delivered  
in the presence of:



Daniel L. Cody

  
Carole Siemens, as Trustee and Individual

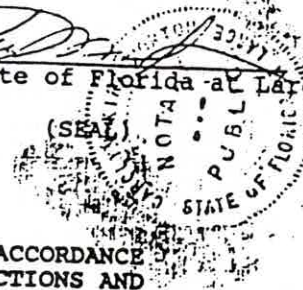
STATE OF FLORIDA }  
COUNTY OF PALM BEACH } SS:

BEFORE ME, Personally appeared, Carole Siemens, individually and as Trustee, known to me to be the individual described in and who executed the foregoing Special Warranty Deed and she

acknowledged to and before me that she executed the same.

WITNESS my hand and official seal in the County and State last aforesaid on this 17<sup>th</sup> day of December, 1987.

*[Handwritten Signature]*  
Notary Public, State of Florida at Large



My commission expires:

Notary Public State of Florida  
My Commission Exp. April 1, 1988  
Bonded Thru Gen. Insurance Ltd.

THIS DEED IS EXECUTED AND DELIVERED TO GRANTEE IN ACCORDANCE WITH THE REQUIREMENTS OF THE DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS FOR RAINBERRY LAKE HOMES RECORDED IN THE OFFICIAL RECORDS BOOK 3176 PAGE 0860 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND THE SUBJECT PROPERTY IS CONVEYED FOR NO CONSIDERATION. THEREFORE, MINIMUM DOCUMENTARY STAMPS HAVE BEEN AFFIXED HERETO.

RETURN TO:

✓ MARIAN PEARLMAN NEASE, ESQ.  
5400 Champion Blvd.  
Boca Raton, Florida 33496

997 2002

URE 3333 79 DL

SPECIAL WARRANTY DEED

EXHIBIT "A"

Legal Descriptions:

The streets as shown on the Plat of Rainberry Lake Phase 2 according to the Plat thereof as recorded in Plat Book 37, Page 94 of the public records of Palm Beach County Florida.

The streets as shown on the Plat of Rainberry Lake Phase III-A according to the Plat thereof as recorded in Plat Book 38, Page 184 of the public records of Palm Beach County, Florida.

Water Management Tracts A, B, C, D, and I as shown on the Plat of Rainberry Lake Phase III-A according to the Plat thereof as recorded in Plat Book 38, Page 184 of the public records of Palm Beach County, Florida.

Buffer Zone. Tracts E and F as shown on the Plat of Rainberry Lake Phase III-A according to the Plat thereof as recorded in Plat Book 38, Page 184 of the public records of Palm Beach County Florida.

The streets as shown on the Plat of Rainberry Lake Phase III-B according to the Plat thereof as recorded in Plat Book 41, Page 124 of the public records of Palm Beach County, Florida.

Water Management Tract A as shown on the Plat of Rainberry Lake Phase III-B, according to the Plat thereof recorded in Plat Book 41, Page 124 of the public records of Palm Beach County, Florida.

Recreation Tract B as shown on the Plat of Rainberry Lake Phase III-B according to the Plat thereof as recorded in Plat Book 41, Page 124 of the public records of Palm Beach County, Florida.

The 25 foot buffer zone as shown on the Plat of Rainberry Lake Phase III-B, according to the Plat thereof recorded in Plat Book 41, Page 124 of the public records of Palm Beach County, Florida.