



# **Declaration of Covenants and Restrictions**



STATE OF FLORIDA

Doc# 1747441  
Bk# 2418 Pg# 2094

## DEPARTMENT OF COMMUNITY AFFAIRS

*"Dedicated to making Florida a better place to call home"*

CHARLIE CRIST  
Governor

THOMAS G. PELHAM  
Secretary

June 1, 2009

Lee R. Rohe, Esquire, P.A.  
Post Office Box 420259  
Summerland Key, Florida 33042

RE: Port Antigua – Covenant Revitalization Submittal  
Port Antigua Property Owners Association, Inc. – Monroe County  
DCA09-HA-114

Dear Mr. Rohe:

The Department has reviewed the declaration of covenants, supplemental declaration, and other governing documents for Port Antigua / Port Antigua Property Owners Association, Inc., and has determined that the documents comply with the requirements of Section 720.406, Florida Statutes (F.S.). Copies of the Declaration of Covenants and Restrictions and Supplemental Declaration that are approved by the Department for revitalization are attached hereto as Attachments A & B.

Please be advised that Sections 720.407(1) and (2), F.S. require that no later than 30 days after receiving this letter, the organizing committee shall file the articles of incorporation of the association with the Division of Corporations of the Department of State if the articles have not been previously filed with the division. The president and secretary of the association shall execute the revived declaration and other governing documents in the name of the association, and have the documents recorded with the clerk of the circuit court in the county where the affected parcels are located no later than 30 days after receiving approval from the Division of Corporations.

Pursuant to Section 720.407(4), F.S., a complete copy of all of the approved, recorded documents must be mailed or hand delivered to the owner of each affected parcel. The revived declaration and other governing documents will be effective upon recordation in the public records. Unless we hear from you within 30 days to make other arrangements, the paper documents you submitted to the Department of Community Affairs will be disposed of after they have been scanned for electronic storage.

If you have any questions concerning this matter, please contact Leslie O. Anderson-Adams, Assistant General Counsel at (850) 922-1689 or Johnna Mattson, Plan Processor at (850) 921-3761.

Sincerely,

Charles Gauthier, AICP  
Director, Division of Community Planning

**REVITALIZED DECLARATION OF COVENANTS AND RESTRICTIONS  
AND SUPPLEMENTAL DECLARATION FOR PORT ANTIGUA PROPERTY  
OWNERS ASSOCIATION**

IN WITNESS WHEREOF, pursuant to Section 720.407 (2), Florida Statutes  
(2009), the foregoing attached instruments known as DCA 09-HA-114,  
ATTACHMENT A and DCA 09-HA-114, ATTACHMENT B, previously recorded in  
OR Book 436, Pages 140 -150 and OR Book 445, Pages 1054-1056, respectively, of the  
Official Records of Monroe County, Florida have been executed on the date and year  
written below by the President and Secretary of PORT ANTIGUA PROPERTY  
OWNERS ASSOCIATION, INC. thereunto duly authorized.

MADE AND EXECUTED on June 18<sup>th</sup>, 2009.

Executed in the presence of:

PORT ANTIGUA PROPERTY OWNERS  
ASSOCIATION, INC.

Printed Name:

Address:

PETER KUPPER

Printed Name:

Address: 460 ELLISON DE MANTOLOKING A-2

\*\*\*\*\*

BY:

Charles Kupper, President

Jeanette Tartaglino  
10 Stockton Rd  
New Brunswick NJ 08901

Executed in the presence of:

PORT ANTIGUA PROPERTY OWNERS  
ASSOCIATION, INC.

Printed Name:

Address: 8090 Overseas Hwy.  
Islamorada, FL 33066

Printed Name:

Address:

BY:

John Kost, Secretary

Danette Newberry

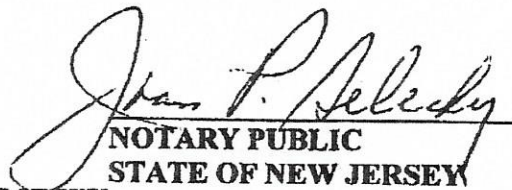


STATE OF NEW JERSEY )  
 ) SS  
COUNTY OF OCEAN )

Doc# 1747441  
Bk# 2418 Pg# 2093

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO  
HEREBY CERTIFY that Charles Kupper, personally known to me to be the President  
of PORT ANTIGUA PROPERTY OWNERS ASSOCIATION, INC., appeared  
before me this 12<sup>th</sup> day of June, 2009 in person and acknowledged that as President, he  
signed and delivered the said instrument, pursuant to the authority given by the Board of  
Directors of PORT ANTIGUA PROPERTY OWNERS ASSOCIATION, INC., as his  
free and voluntary act, and as the free and voluntary act and deed of the said corporation,  
for the uses and purposes therein set forth.

Given under my hand and official seal, this 12<sup>th</sup> day of June, 2009.

  
NOTARY PUBLIC  
STATE OF NEW JERSEY

JOAN P. SILESKY  
NOTARY PUBLIC OF NEW JERSEY

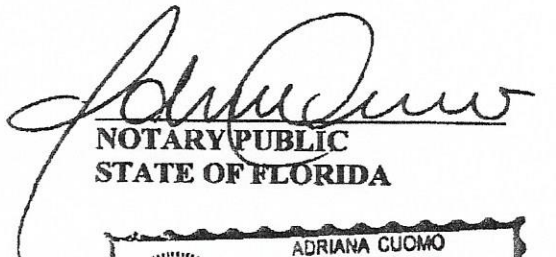
My Commission Expires: MY COMMISSION EXPIRES MAR. 28, 2014

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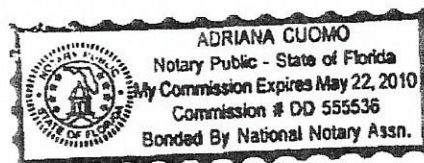
STATE OF FLORIDA )  
 ) SS  
COUNTY OF MONROE )

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO  
HEREBY CERTIFY that John Kost, personally known to me to be the Secretary of  
PORT ANTIGUA PROPERTY OWNERS ASSOCIATION, INC., appeared before  
me this 18 day of June, 2009 in person and acknowledged that as Secretary, he signed  
and delivered the said instrument, pursuant to the authority given by the Board of  
Directors of PORT ANTIGUA PROPERTY OWNERS ASSOCIATION, INC., as his  
free and voluntary act, and as the free and voluntary act and deed of the said corporation,  
for the uses and purposes therein set forth.

Given under my hand and official seal, this 18 day of June, 2009.

  
NOTARY PUBLIC  
STATE OF FLORIDA

My Commission Expires: 5/22/10



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179311

DECLARATION OF COVENANTS AND RESTRICTIONS

This Declaration made this 16 day of July, A.D. 1969, by THE BRANIGAR ORGANIZATION, INC., an Illinois corporation duly qualified in Florida, hereinafter called "Developer",

WITNESSETH:

WHEREAS, Developer is engaged in developing the real estate described in Article II of this Declaration; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in the Development and for the maintenance of the beach front tract; and to this end desires to subject the real property described in Article II, together with such additions as hereafter may be made, (as provided in Article II) to the covenants, restrictions, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, The Developer has deemed it desirable for the efficient preservation of the values and amenities in the Development to create an entity to which should be delegated and assigned the powers of maintaining and administering the common properties and facilities in the Development and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated or hereafter will incorporate under the laws of the State of Florida, as a non-profit corporation, Port Antigua Property Owners' Association for the purpose of exercising the functions aforesaid; and

WHEREAS, Developer has recorded a Declaration of Covenants and Restrictions dated May 23, 1969, Official Records 434 commencing at Page 263 of Public Records of Monroe County, Florida, with respect to the real property herein described, which Declaration Developer desires to release and substitute in lieu thereof this Declaration of Covenants and Restrictions;

NOW, THEREFORE, the Developer declares that the real property described in Article II, and such additions thereto as hereafter may be made pursuant to Article II, 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

SECTION 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meaning:

DCA 09-HA-114

ATTACHMENT **A**



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(a) "Association" shall mean and refer to Port Antigua Property Owners' Association, its successors and assigns.

(b) "The Properties" shall mean and refer to all existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II hereof.

(c) "Common Properties" shall mean and refer to beach front tracts of land shown on any recorded subdivision plat of the properties designated as "Tract" followed by an alphabetical letter and intended to be devoted to the common use and enjoyment of the owners of the properties; any area shown on any recorded subdivision plat of the properties designated "Canal"; and any other property conveyed to the Association by the Developer for the common use and enjoyment of the owners of the properties.

(d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of common properties as heretofore defined.

(e) "Beach front tract" shall mean any area on any recorded subdivision plat of the properties designated as "Tract" followed by an alphabetical letter.

(f) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title of any lot situated upon the properties but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(g) "Member" shall mean and refer to all those owners who are members of the Association as provided in Article IV, Section 1 hereof.

(h) "Voluntary member" shall mean and refer to all those owners who are members of the Association as provided in Article IV, Section 1 hereof.

(i) "Single family" shall mean one or more persons each related to the other by blood, marriage or adoption, or a group of not more than three persons not so related, together with his or her domestic servants, maintaining a common household.

(j) "Lot line" shall mean any boundary of a lot.

(k) "Living area" shall mean that portion of a dwelling which is enclosed and customarily used for dwelling purposes, but shall not include (except as otherwise herein stated) open porches, open terraces, breezeways, attached garages, car ports or accessory buildings.

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(1) "Structure" shall mean anything erected or constructed, the use of which requires more or less permanent location on or in the ground or attached to something having a permanent location on or in the ground.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION;  
ADDITIONS THERETO

SECTION 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is situated in Monroe County, Florida, and described as follows, to wit:

Lots 47 to 97, both inclusive, in Fort Antigua, Plat No. 2, a subdivision in Monroe County, Florida according to recorded plat thereof, Plat Book 6, Page 18, Public Records of Monroe County, Florida.

All of such real property hereinafter shall be referred to as the "existing property".

SECTION 2. Additions to Existing Property. Additional lands may become subject to this Declaration in the following manner:

(a) All other lands within the single tract having an area of 110 acres more or less now being developed by the Developer as a family residence community (of which tract the existing property is a part) may become subject as additions to this Declaration.

The additions authorized under this subsection shall be made by filing of record a Supplemental Declaration of Covenants and Restrictions with respect to the additional property which shall extend the scheme of this Declaration to such property. Such Supplemental Declaration may contain such complementary additions and modifications of the covenants and restrictions herein contained as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme of this Declaration. In no event, however, shall any such Supplemental Declaration revoke, modify or add to the covenants established by this Declaration with the existing property.

ARTICLE III

GENERAL RESTRICTIONS

SECTION 1. Land Use and Building Type. All lots on any recorded subdivision plat of the properties which are designated with a numeral (without prefix) shall be used for private residence purposes only, except that, subject to any applicable zoning restrictions and to approval of the Architectural Control Committee as provided in Article VII, the Developer may authorize improvement of Lots 47, 48 and 49 with a condominium or apartment building of not to exceed two stories in height and containing not more than four dwelling units. No structure, except as



specifically authorized elsewhere in this Declaration, shall be erected or maintained on a lot except one dwelling designed for occupancy by a single family, a private garage and/or boat house and dock for the sole use of the owners or occupants. No structure shall be erected prior to construction of a residence. No other structures may be erected except in such manner and location as hereinafter provided or as provided in writing by the Association.

SECTION 2. Building Grade. The finished grade of any lot shall be uniform with and similar to the grades of adjacent lots.

SECTION 3. Building Size and Location on Lot. No single family residence shall be erected having a living area of less than 950 square feet (including porch on living area level). The outside of such building shall be completed within one year of commencement. Such building shall be set back from the front lot line a distance of 25 feet and from the side lot lines a distance of not less than 4 feet. A corner lot shall be deemed to front on the street of which it has the shortest street frontage. No portion of a building erected on a corner lot shall be closer to any street lot line than 15 feet, except that open car ports may be 5 feet from a side lot line.

SECTION 4. Resubdivision. No lot shall be resubdivided.

SECTION 5. Floor Level Height. The underside floor level of the living area of each residential structure shall be not less than 12 feet above mean high water level.

SECTION 6. Bulkheading. No residential structure shall be erected on any lot until the water frontage of such lot has been bulkheaded in accordance with design specifications approved by Developer or the Association.

SECTION 7. Sewage. All sewage disposal shall be effected through an efficient septic tank, cesspool or other accepted sewage disposal system approved by Developer or the Association.

SECTION 8. Nuisances. There shall not be created or permitted to exist on any part of any lot any dumping ground, accumulation of debris, exposed garbage or any foul smelling matter whatsoever.

SECTION 9. Easements. Easements for utility installation and maintenance are reserved as shown on the recorded plat. In addition, the Developer, for itself, its successors and assigns, hereby reserves an easement over, across and under the front 6 feet of each lot for the purpose of installing and maintaining underground utilities.

SECTION 10. Deviation by Agreement with the Association. Developer hereby grants and gives the Association, its successors and assigns the right to enter into agreements with the grantees



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of any lot or lots without the consent of grantees of other lots to deviate from any on the covenants set forth in this Article III for reasons of practical difficulties or particular hardships. Any such deviation shall be manifested by agreement in writing and shall not constitute a waiver of any such covenant as to other lots.

#### ARTICLE IV

##### 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 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 security for the performance of the obligation shall not be a member. Every owner of a lot in Port Antigua, Plat No. 1, a subdivision in Monroe County, Florida, according to the recorded plat thereof, may become a voluntary member by making application for membership in accordance with the provisions of the by-laws of the Association and agreeing to be bound by the articles, by-laws, rules and regulations of the Association, including provisions relating to assessments. The rights and obligations of voluntary members shall be equal to those of members.

SECTION 2. Voting Rights. The Association shall have two classes of voting members:

Class A. Class A members shall be all those persons who are members 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 as they among themselves determine, but in no event shall more than one vote be cast with respect to any such lot.

Class B. Class B members shall be the Developer. The Class B member shall be entitled to three votes for each lot in which it holds the interest required for membership by Section 1, provided that the Class B membership shall cease and become converted to Class A membership on the happening of either of the following events, whichever occurs first:

(a) When the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership, or

(b) January 1, 1975.

From and after the happening of either of these events, whichever occurs first, the Class B member shall be deemed to be a Class A member entitled to one vote for each lot in which it holds the interest required for membership under Section 1.

ARTICLE VPROPERTY RIGHTS IN THE COMMON PROPERTY

SECTION 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3, every member shall have a right and easement of enjoyment in and to the common property, and such easement shall be appurtenant to and shall pass with the title to every lot.

SECTION 2. Title to Common Property. The Developer may retain the legal title to the common properties until such time as it has completed improvements thereon and until such time as, in the opinion of the Developer, the Association is able to maintain the same, but notwithstanding any provision herein, the Developer hereby covenants for itself, its successors and assigns that it shall convey the common property to the Association free and clear of all liens and encumbrances not later than January 1, 1975.

SECTION 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Developer and of the Association to prescribe reasonable rules and regulations for the use of the common property.

(b) The right of the Association as prescribed in its articles and by-laws to suspend the enjoyment rights of any member for any period during which any assessment remains unpaid and for any period not to exceed 30 days for any infraction of its published rules and regulations.

(c) The right of the Association to charge reasonable admission and other fees for the use of the common properties if amounts received from assessments are insufficient for the maintenance and upkeep thereof or any improvements made thereon.

(d) The right of the Association to dedicate or transfer all or any part of the common property to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association in accordance with its articles and by-laws.

(e) The right of the Association to charge reasonable admission and other fees for the use of the Common Properties.



(e) The right of the Developer and/or the Association, its successors and assigns, to construct on, over and under the Common Properties and to maintain water, electric, gas, telephone, sanitary disposal system and other utility facilities to serve The Properties or portions thereof and to grant easements to others in such regard.

#### ARTICLE VI

##### COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. Creation of the Lien and Personal Obligation of 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 any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: annual assessments or charges, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual 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 cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

SECTION 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in The Properties and, in particular, for the maintenance of and related to the use and enjoyment of the Common Properties including, but not limited to, the payment of taxes and insurance thereon and for the cost of labor, equipment, materials, management and supervision thereof.

SECTION 3. Basis and Maximum of Annual Assessments. The annual assessment shall be \$25.00 per Lot. From and after January 1, 1975, the annual assessment may be increased by vote of the members, as hereinafter provided, for the next succeeding three years and at the end of each such period of three years for each succeeding period of three years.

The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount.

SECTION 4. Change in Basis and Maximum of Annual Assessments. Subject to the limitations of Section 3 hereof, and for the periods therein specified, the Association may change the maximum and basis of the assessments fixed by the Section 3 hereof prospectively for any such period provided that any such change shall have the assent of two-thirds of the votes of each



class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

SECTION 5. Quorum for Any Action Authorized Under Section 4. The quorum required for any action authorized by Section 4 hereof shall be as follows:

At the first meeting called, as provided in Section 4 hereof, the presence at the meeting of members, or of proxies, entitled to cast sixty (60) per cent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Section 4 and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 6. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Board of Directors of the Association to be the date of commencement, but in any event not before January 1, 1972.

The first annual assessments shall be made for the balance of the calendar year and shall become due and payable on the day fixed for commencement. The assessments for any year, after the first year, shall become due and payable on the first day of March of said year.

The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of months in that year bear to twelve. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to The Properties now subject to assessment at a time other than the beginning of any assessment period.

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

SECTION 7. Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period at least thirty (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.



The Association, upon demand and payment of a service fee of not more than \$10.00, shall at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

SECTION 8. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner; The Lien; Remedies of Association. If the assessments are not paid on the date when due (being the dates specified in Section 6 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and 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 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.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of 7% per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing the filing 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.

SECTION 9. Subordination of the Lien to Mortgages. The lien for the assessments provided for herein shall be subordinated to the lien of any mortgage or mortgages now or hereafter placed upon the Properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

SECTION 10. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by local public authority and devoted to the public use; (b) all Common Properties as defined in Article I, Section 1 hereof; (c) all properties exempted from taxation by the laws of the State of Florida, upon the terms and to the extent of such legal exemption.



Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE VII

ARCHITECTURAL CONTROL COMMITTEE

SECTION 1. Review by Committee. No building, fence, wall or other structure shall be commenced, erected or maintained upon The Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location and grade of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Developer or the Board of Directors of the Association, or by an Architectural Control Committee composed of three (3) or more representatives appointed by the Board. In the event said Developer or Board, or its designated committee, fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, or in any event if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this Article will be deemed to have been fully complied with. At the discretion of the Developer or Committee, a filing fee of \$25.00 shall accompany the submission of such plans to defray expenses. No additional fee shall be required for resubmission of plans revised in accordance with committee recommendations.

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 Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of 20 years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years 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. Provided, however, that no such agreement to change shall be effective unless made and recorded one (1) year in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

SECTION 2. Notices. Any notice required to be sent to any member of Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, 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.



REC. 436 MAY 150

**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 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.

**SECTION 4. Severability.** Invalidity of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

**ARTICLE IX**

**SECTION 1. Release of Prior Declaration of Covenants and Restrictions.** The Developer hereby releases, satisfies and discharges the provisions of the Declaration of Covenants and Restrictions dated May 23, 1969, and recorded in Official Records 434 commencing at Page 263 of the Public Records of Monroe County, Florida, insofar as said documents pertain to the real estate described in Article IX, Section 1 hereof, it being the intention of the Developer to substitute in lieu thereof the provisions of this Declaration of Covenants and Restrictions.

IN WITNESS WHEREOF, the foregoing instrument has been executed and its corporate seal thereunto affixed, on the date and year first above written by the officers of the undersigned thereunto duly authorized.



(Affix Corporate Seal)

THE BRANIGAR ORGANIZATION, INC.

BY Robert D. Farr  
Vice President

ATTES: Robert D. Farr

STATE OF ILLINOIS  
COUNTY OF COOK

SS Earl R. Adams 179311  
Notary Public in and for the State of Illinois  
My Commission Expires October 23, 1970

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that Edward S. Lesmer L. HANCOCK personally known to me to be the Vice President of THE BRANIGAR ORGANIZATION, INC. and ROBERT D. FARR, personally known to me to be the Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and personally acknowledged that as such Vice President and Secretary they signed and delivered the said instrument as Vice President and Secretary of said corporation, and affixed the corporate seal of said corporation to be affixed thereto, and to authority given by the Board of Directors of said corporation, and that they did so of their free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 16th day of July, 1969.  
This Copy is a True Copy of the Original in my Office.  
My Commission Expires October 23, 1970

Robert D. Farr  
DS

445 1054

SUPPLEMENTAL DECLARATION

185994

This Supplemental Declaration made this 20th day of October 1989 by THE BRANIGAR ORGANIZATION, INC., an Illinois corporation, duly qualified in Florida ("the Developer");

WITNESSETH:

WHEREAS, the Developer heretofore has recorded Declaration of Covenants and Restrictions, official record book 436, commencing at page 140, with respect to certain real property situated in Monroe County, Florida, and described as follows, to wit:

Lot 50 to 97, both inclusive, in Port Antigua, Plat No. 2, a subdivision in Monroe County, Florida, according to plat thereof recorded in Plat Book 6 at Page 18 of the Public Records of Monroe County, Florida; and

WHEREAS, the Developer has caused to be platted certain additional real property situated in Monroe County, Florida, described as follows, to wit (referred to below as Tract A);

Lots 98 to 200, both inclusive, in Port Antigua, Plat No. 3-4, a subdivision in Monroe County, Florida, according to plat thereof recorded in Plat Book 6 at Page 24 of the Public Records of Monroe County, Florida; and

WHEREAS, the Developer also has caused to be platted certain additional real property situated in Monroe County, Florida, described as follows, to wit (referred to below as Tract B);

Lots 201 to 331, both inclusive, in Port Antigua, Plat No. 5-6, a subdivision in Monroe County, Florida, recorded in Plat Book 6 at Page 24 of the Public Records of Monroe County, Florida; and

WHEREAS, the Developer desires to extend to certain portions of Tract A and Tract B described above the scheme of covenants and restrictions as set forth in the Declaration of Covenants and Restrictions, recorded in official record book 436, commencing at page 140;

FILED FOR RECORD

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REC'D. MONROE CO. CLERK OF CIR. COURT



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NOW, THEREFORE, the Developer declares that the real property situated in Monroe County, Florida, described below is and shall be held, transferred, conveyed, sold and occupied subject to the covenants, restrictions, easements, charges and liens, all as set forth in that certain Declaration of Covenants and Restrictions dated July 18, 1969, and recorded in official record book 438, commencing at page 140 of the Public Records of Monroe County, Florida.

The real property hereby made subject to said covenants and restrictions, and as hereinafter modified with respect to certain lots, is situated in Monroe County, Florida, and described as follows:

Lots 98 to 200, both inclusive, in Port Antigua, Plat No. 3-4, a subdivision in Monroe County, Florida, according to plat thereof recorded in Plat Book 6 at Page 24 of the Public Records of Monroe County, Florida

AND

Lots 201 to 331, both inclusive, in Port Antigua, Plat No. 5-6, a subdivision in Monroe County, Florida, according to plat thereof recorded in Plat Book 6 at Page 25 of the Public Records of Monroe County, Florida.

Anything in said Declaration of Covenants and Restrictions to the contrary notwithstanding, subject to any applicable zoning restrictions and to approval of the Architectural Control Committee as provided in Article VII of said Declaration of Covenants and Restrictions, the Developer may authorize improvement of certain lots in a manner not provided in the aforementioned Declaration of Covenants and Restrictions, to wit:

1. Lots 145, 146, 147, 148, 149, 150, 201, 202, 203 and 326 may be developed with condominium or apartment structures not to exceed two stories in height and containing not more than four dwelling units.
2. Lots 327, 328, 329, 330 and 331 may be developed with condominium or apartment structures, the size of which will not exceed the restrictions outlined by the Monroe County Health Department at the time of building.
3. Lots 262 through 282, both inclusive, need be bulkheaded only with respect to the portion of the frontage of each lot intended to be used for docking accommodations.
4. With respect to all of the lots included in Port Antigua Plats 3-4 and 5-6, no dock shall extend more than five feet from the bulkhead into any canal.

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IN WITNESS WHEREOF, the foregoing instrument has been executed and its corporate seal thereunto affixed on the date and year first above written by the officers of the undersigned thereunto duly authorized.

THE BRANIGAN ORGANIZATION, INC.

By: Maynard O. Helton  
Vice President

ATTEST: Robert D. Fan  
SECRETARY



STATE OF ILLINOIS )  
COUNTY OF COOK ) SS

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that Maynard O. Helton personally known to me to be the Vice President of THE BRANIGAN ORGANIZATION, INC. and Robert D. Fan personally known to me to be the Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Vice President and Secretary, they signed and delivered the said instrument as Vice President and Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal this 12th day of January, 1940.

Walter Helton  
Notary Public

My Commission expires January 21, 1941



STATE OF FLORIDA  
COUNTY OF MONROE

This Copy is a True Copy of the Original as shown to this Office. Witness my hand and official Seal.

This 11th day of March, 1940

Walter Helton  
Notary Public

MONROE COUNTY  
OFFICIAL RECORDS