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RECORDED AND VERIFIED
REBECCA P. TUCKER
REGISTER OF DEEDS
NEW HANOVER CO. NC

JAN 19 11 36 AM '84

STATE OF NORTH CAROLINA :
COUNTY OF NEW HANOVER :

DECLARATION OF CONDOMINIUMS

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Now comes Howard H. Hess and wife, Joyce M. Hess, hereinafter called "DECLARANTS", being the owners in fee simple of the property hereinafter described, hereby submit said property to condominium ownership pursuant to Chapter 47A of the General Statutes of North Carolina, as amended, known as the "Unit Ownership Act", and to that end do hereby publish and declare that all of the said property to be known as "Beach Haven Condominium Homeowner's Association, Inc.", is and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved, subject to the following conditions, covenants, restrictions, uses, limitations and obligations, all of which shall be deemed to run with the land, and shall be a burden and benefit to Declarants, their heirs and assigns, and any persons acquiring or owning an interest in the property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. Description of Property: All of that certain tract of land with the buildings and improvements thereon erected or to be erected, situate, lying and being in the Town of Wrightsville Beach, County of New Hanover, State of North Carolina, and more particularly described as follows:

BEGINNING at a point in the Western line of Lumina Avenue 52 feet southwardly along said western line of Lumina Avenue from its intersection with the southern line of Atlanta Street, running thence from said point of beginning southwardly and with and along the western line of Lumina Avenue 48 feet to a point; thence westwardly and parallel with Atlanta Street 100 feet to a point; thence northwardly and parallel with Lumina Avenue 48 feet to a point; thence eastwardly and parallel with Atlanta Street 100 feet to the western line of Lumina Avenue point of beginning. The same being a part of Lot 84, in Block H, according to a map of Wrightsville Beach Extension recorded in Book 60, at Page 631, in the office of the Register of Deeds of New Hanover County.

2. Description of Building: There is to be constructed upon the property described in paragraph 1 above, a two story building with four condominium units to be used for residential purposes. A plat of survey

RETURNED TO J. B. Swails
P. O. Box 4
Wilm., NC 28402

of the property by Jack G. Stocks, R.L.S., showing the location of said building as attached hereto and made a part hereto as Exhibit A. The building is more particularly described on the plans thereof, copies of which plans are attached hereto as Exhibit B, C and D and made a part hereof, showing all particulars of the building as required by law. There is no basement and the building is constructed upon raised wood pilings. The buildings are of frame construction. The Building has a gross area of approximately 2000 square feet, divided into four individual condominiums, the building has a common outside parking area, walkway, driveway and other appurtenances and facilities.

3. Unit Designation and Description:

A. Designation: The unit designation of each unit and its location and type of floor plan is set forth on Exhibits A, B, C and D, hereto attached.

B. Description: Each unit is one story in height and is bounded both as to horizontal and vertical boundaries by the interior surface of its perimeter walls, first story ceilings and floors as shown on said map, subject to such encroachments as are contained in the Building, whether the same now exists or may be caused or created by construction, settlement or movement of the buildings, or by permissible repairs, construction or alteration. The floor plans of the two floors of the building hereto attached as Exhibits B and C show the location and arrangement of each of the units. All four units are of approximately equal size. The porches and patios attached to each unit are included as a portion of the unit which it is attached.

4. Common Areas and Facilities:

A. Common areas and facilities consist of (1) the land submitted to condominium ownership as shown in paragraph 1 hereof, (2) all foundations, columns, girders, beams, supports, roofs, first floor joist seals and subflooring exterior walls and the interior walls which separate units 1 and 2 and units 3 and 4, (3) the driveway parking area and walk attached and adjoining the parking area, (4) stairs and landings adjacent to the units and necessary as a means of egress and

ingress to said units, (5) all other parts of the property and all apparatus and installations existing in the building or upon the property for common use are necessary or convenient to the enjoyment, existence, maintenance or safety of the property.

B. (1) The individual share in common elements which are appurtenant to a unit shall not be separated therefrom and shall pass with the title to the unit rather or not separately described.

(2) A share in the common elements appurtenant to the unit can only be conveyed or encumbered together with the unit.

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

C. The undivided interest of each owner and such common areas and facilities is as follows:

Unit 1	25%
Unit 2	25%
Unit 3	25%
Unit 4	25%

5. All areas not hereinbefore described as common areas shall be deemed a limited common areas and may be used exclusively by the owner of the unit adjacent to such limited common areas, subject to the same rights and limitations applicable to each dwelling unit as provided herein, provided, however, that the said limited common areas shall be maintained by the Homeowner's Association.

6. Use: No unit shall be used or occupied for any purpose other than as a private single family residence. Nothing shall be stored in the common area without the prior consent of the Board of Directors of the Association and there shall be no obstructions of the common areas. No animals, live stock or poultry of any kind shall be raised, bred or kept in any unit or in the common areas except as may be permitted by rules and regulations adopted by the Homeowner's Association. No obnoxious or offensive activity shall be carried on in any unit or in the common area nor shall any thing be done therein which may be or

become an annoyance or nuisance to the other owners. No sign of any kind shall be displayed on any unit or in the common areas without the prior consent of the Board of Directors of the Association and there shall be no violations of the rules for the use of the common areas adopted by the Board of Directors.

7. Process Agent: DENNIS MOELLER of WRIGHTSVILLE BEACH is hereby designated as the person to receive service of process in any action provided for under North Carolina General Statutes Chapter 47A. The Board of Directors of the Association may change the process agent by filing a declaration of change in the office of the Register of Deeds of New Hanover County.

8. A. Maintenance: All plumbing, air conditioning, floor and wall coverings, heating, electrical, telephone, cabinetry, petitions, walls, ceilings, and other fixtures and equipment located within the unit, and all windows and doors opening into the unit, shall be maintained (and if the owner desires insured), by the owner. Any replacements or substitutions of such fixtures and equipment shall be compatible with any common areas and facilities effected thereby. The Association shall not be responsible for repairing, maintaining and replacing such fixtures or equipment.

B. All parts of the condominium units shall be kept in good condition and repair by and at the expense of the owner. The unit shall be maintained by the owner in a clean, safe condition, free of nuisance. Each unit owner will comply promptly with any requirements of the insurance underwriters of the insurance for the common areas and facilities and so requested by the Board of Directors of the Association or its designated agent. If any owner fails to repair, maintain or replace any facilities, fixtures or equipment located in his unit, when required, pursuant to the condominium documents or the termination by the Board of its designated agent that such failure will endanger or impair the value of the common area and facilities or any unit belonging to another member or its common elements, the same may be repaired or replaced by the Association at the expense of the unit owner, to be

collected by special assessment as herein provided. Such assessment may include the cost to the Association incurred in the abatement of any nuisance maintained by the unit owner herein.

9. Easements: The Declarants or the Board of Directors of the Association hereinafter grant easements for utility purposes for the benefit of the property including the right to install, lay, maintain, repair and replace water lines, pipes, sewer lines, gas mains, television and telephone wires and equipment and electrical wires over, under or on any portion of the common areas; each unit owner hereby grants to the Declarants for the Board of Directors and irrevocable power of attorney, to execute, acknowledge and record such instruments as may be necessary to effectuate the foregoing.

10. Common expenses: The unit owners are bound to contribute prorata in the percentages set forth in paragraph 4 above towards the expense of administration and of maintenance and repair of general and limited common areas and facilities, and toward any other expenses lawfully assessed by the Association. No unit owner may exempt himself from contributing towards such expenses by waiver of the use or enjoyment of the common areas and facilities or by the abandonment of the unit belonging to him.

11. Taxes: Each condominium unit and its percentages of undivided interest in the common areas and facilities set forth in Paragraph 5 hereof, shall be deemed to be a separate parcel and shall be separately assessed and taxes for all types of taxes authorized by law,, including, but not limited to, special ad valorem levies and special assessments. Each unit holder shall be liable solely for the amount to taxes against his individual unit and shall not be affected by the consequence resulting from the tax delinquency of any other unit holders. Neither the building, the property, nor any of the common areas and facilities shall be deemed to be a separate parcel for purposes of taxation.

12. Liens:

A. No liens of any nature may be created subsequent to the recording of this Declaration against the condominium property as a whole (as distinguished from an individual unit, together with its undivided common interest in the common areas and facilities) except with the unanimous consent of the unit owners and the holders, if any, of prior liens thereon.

B. No labor performed or materials furnished to the common elements shall be the basis for a lien thereon unless authorized by the Condominium Documents or expressly authorized by the Board, in which event, same might be the basis for the filing of a lien against all condominium units in the proportions for which the owners thereof are liable for common expenses.

C. Unless otherwise provided by law, in the event a lien against one or more condominium units becomes effective each owner thereof may relieve his condominium unit of the lien by paying the proportionate amount attributable to his condominium unit. Upon such payment, it shall be the duty of the lienor to release the lien of record for such condominium unit.

D. Assessments against unit owners by the Association made pursuant to the By-Laws shall, if not paid when due, create a lien in favor of the Association against the unit of the defaulting owner as provided by Section 47A-22 of the Unit Ownership Act, and shall be collected as therein provided.

E. All liens provided for herein shall be subordinate, and are hereby subordinated, to the lien of any first mortgage given to any lender to secure a loan, the proceeds of which are used to finance the purchase of any unit or units, unless any such lien provided for herein shall have been recorded in the Office of the Clerk of Superior Court prior to the recordation of said first lien mortgage in the office of the Register of Deeds of New Hanover County, North Carolina.

13. Nature of Interest in Unit:

A. Every unit, together with its undivided common interest in the common areas and facilities, shall for all purposes be a separate

parcel of real property and the unit owner thereof shall be entitled to the exclusive ownership and possession of such unit subject only to the provisions of the Unit Ownership Act, the Condominium Documents and the covenants, restrictions, easements, regulations, resolutions and decisions adopted pursuant thereto.

B. The owner shall be entitled to use the common areas and facilities in accordance with the purpose for which they are intended, but no such use shall hinder or encroach upon the lawful rights of the owners of other units. There shall be a joint use of the common areas and facilities and a joint mutual easement for that purpose is hereby created.

14. Insurance: The Board of Directors (or the Managing Agent, if so designated by the Board), on behalf of the Association, at its common expense shall at all times keep the property (except personal property within a unit) insured against loss or damage by fire or other hazards normally insured against at 100% of replacement cost, and such other risks, including public liability insurance, upon such terms and for such amounts as may be reasonably necessary from time to time to protect the property and as shall be required to protect not only the Unit Owners but any lending institution holding first liens on individual units which insurance shall be payable in case of loss to the Board (or its designee) as Trustee for all Unit Owners and mortgagees according to the loss or damage to their respective apartments and appurtenant common interest as their interests may appear. The Trustee so named shall have the authority on behalf of the Association and Unit Owners to deal with the insurer in the settlement of claims.

Such insurance shall be obtained without prejudice to the right of each individual Unit Owner to insure his personal property for his own benefit and any Unit Owner or Occupant may obtain additional insurance at his own expense; provided, however, that no owner or occupant shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Board of Directors (or its Designee) as Trustee for all the owners, may realize under any

insurance policy in force on the project at any particular time. In no event shall the insurance coverage obtained by the Board of Directors (or its Designee) be brought into contribution with insurance purchased by individual owners or their mortgagees.

15. **Damage or Destruction:** Except as hereinafter provided, damage to or destruction of the property or building shall be promptly repaired and restored by the Board using the proceeds of insurance for that purpose, and the Unit Owners of all units shall be liable for assessment of any deficiency in accordance with their undivided interest in the common areas and facilities as set forth in Paragraph 5; provided, however, if the building shall be more than two-thirds destroyed by fire or other casualty, as determined by the Board of Directors and the owners of two-thirds of the units resolve not to proceed with the construction or restoration, then and in that event:

A. The property shall be deemed to be owned as tenants in common by the Unit Owners in the same percentages as set forth in Paragraph 5 previously applicable to the share of such owner in the common areas and facilities.

B. Any liens affecting any of the units shall be deemed to be transferred, in accordance with the existing priorities, to the percentage of undivided interest of the Unit Owner in the property as herein provided.

C. The property shall be subject to an action for partition at the suit of any Unit Owner, in which event, the net proceeds of sale, together with the net proceeds of insurance policies, if any, shall be considered as one fund and shall be divided among the Unit Owners in proportion to their respective undivided interest in the common areas and facilities, as set forth in Paragraph 5, after paying off, out of the respective shares of the Unit Owners all liens on the respective unit.

16. **Transfer of Units:**

A. **Right of First Refusal:** In the event that any person or entity who owns a unit shall desire to sell, lease or transfer such

unit, then the said unit shall first be offered for sale or lease to the Association at the same net price and on the same terms at which the highest bona fide offer has been made for the said unit. The unit owner shall give the Association written notice of his desire to sell or lease, by certified or registered mail, return receipt requested, and shall further advise the President of the Association of the name and address of the person, firm or corporation making the highest bona fide offer as well as the amount and terms of such offer. Within thirty days after receipt of such said notice, the Association may exercise its option to lease or purchase the unit. Should the Association fail or refuse within thirty days after receipt of the written notice to exercise its option, the unit may then be leased or sold at the price or rental not less than that for which it is offered to the Association. Any sale or lease of any unit by the owner to the person, firm or corporation, making such offer shall be subject to all of the terms, covenants, limitations and provisions of the Condominium Documents.

B. Mortgaging: No unit owner may mortgage his unit or any interest therein without the approval of the Association except as to a first mortgage lien, in which event notice shall be given to the Association as to the name and address of such mortgagee. Upon request of the Association, the owner shall provide to the Association a copy of all mortgaged documents relating to the unit.

C. Transfer Voidable: Any sale, voluntary transfer, conveyance, lease or mortgage, except as to a first mortgage lien as mentioned in Paragraph 17B above, which is not authorized by the terms of this Declaration or for which authorization has not been obtained pursuant to the terms hereto is voidable and may be voided by a certificate of the Board duly recorded in the recording office where this Declaration is recorded.

D. Effective Date: The provisions of this Paragraph shall become operative upon each unit upon the transfer of title by the Declarants to the first purchaser thereof.

E. Inter-Family Transfer: An owner may give, devise or bequeath his interest in any unit to his spouse, his parents or to any lineal descendants, including adopted children; or to a corporation or partnership (not created primarily for the purpose of avoiding Paragraph 17A hereof), of which all classes of stock or partnership interests are more than eighty per cent owned by each unit owner, his spouse and his lineal descendants, without the prior written consent of the Board of Directors.

17. Management Agreement: The Declarants or their designee, by agreement to be entered into with the Association, shall act as Managing Agent from the date of the first conveyance of title to an owner until the date of the first annual meeting of the Association, and thereafter until terminated by the parties, with responsibility for co-ordinating all normal management services of the Association; provided, however, that the Declarants shall have the right, at any time, upon giving sixty (60) days notice to the Association, to terminate the Management Agreement with the Association; and provided, further, that the Board of Directors of the Association shall have the right, at any time after the first annual meeting of the Association upon giving sixty (60) days notice to Declarants, to terminate and cancel said Management Agreement.

During such period, the Managing Agent shall receive for his services from each owner, a management fee to be agreed upon by a majority of the unit owners, commencing on the date of the closing of the first sale of a unit or an owner.

Under the Management Agreement, the Managing Agent, to the exclusion of all persons, including the Association and its members, shall be delegated all the powers and duties of the Association as set forth in this Declaration of Condominium and the By-Laws of the Association (except such thereof as are specifically required to be exercised by the Board of Directors or the members), including, but not limited to the power of levy and collect assessments for the common expenses of the condominium; and it shall be the duty of the Managing Agent to supervise, generally manage, and maintain the common elements

of the condominium at the expense of and for the benefit of the Association and its members.

Each owner shall pay monthly to the Managing Agent an assessment equal to the unit's pro-rata share, as set forth in Paragraph 5 of this Declaration, of the estimated total operating expenses, including the above management fee, which assessments shall be due on the first day of each month. Payments not received when due shall bear interest at the maximum legal rate.

18. Units Subject to Condominium Documents: All present and future owners, tenants and occupants of dwelling units and their guests or invitees, shall be subject to, and shall comply with the provisions of the Condominium Documents, and as the Condominium Documents may be amended from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any dwelling unit shall constitute an agreement that the provisions of the Condominium Documents are accepted and ratified by such owner, tenant or occupant, and all such provisions shall be deemed and taken to be covenants running with the lands and shall bind any person having at any time any interest or estate in such unit as though such provisions were made a part of each and every deed of conveyance or lease. Failure to comply with the provisions of the Condominium Documents shall entitle the Association or any owner to seek legal and/or equitable relief.

19. Amendment of Declaration: Except as provided in Paragraph 8 for the changing the Process Agent, this Declaration may be amended only by the vote of at least two-thirds of all unit ownerships (each unit having one vote, regardless of the number of individuals or entities owning interests in a unit), cast in person or by proxy at a meeting duly held in accordance with the provisions of the By-Laws. The By-Laws may be amended in accordance with the procedure set forth in such By-Laws. No such amendment shall be effective until recorded in the Office of the Register of Deeds for the county wherein the property is located. In no event may the Declaration be amended so as to deprive the Declarants of any rights granted herein.

20. Warranties: Declarants make no warranties, express or implied, in any respect with regard to the lands and buildings which are the subject of this Declaration, except for such warranties set forth in the general warranty deed to the unit.

21. Non-Profit Corporation: It is the intention of Declarants that all rights of the Association shall be vested in a non-profit corporation known as the Beach Haven Condominium Homeowner's Association, Inc., which shall be or has been formed pursuant to the laws of the State of North Carolina and the applicable Federal laws. Such corporation shall be formed and operated in accordance with this Declaration and the By-Laws attached hereto and incorporated herein, and all governing laws, as they shall be amended from time to time.

22. Invalidity: The invalidity of any provisions of this Declaration shall not impair or affect the validity and enforceability of the remainder of this Declaration, and in such event, all of the provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included.

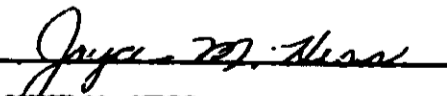
23. Waiver: No provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

24. Law Controlling: This Declaration and the By-Laws attached hereto shall be construed under and controlled by the laws of the State of North Carolina.

IN TESTIMONY WHEREOF, the Declarants have hereunto set their hands and affixed their seals, this 3rd day of Jan, 1988.



Howard H. HESS



JOYCE M. HESS

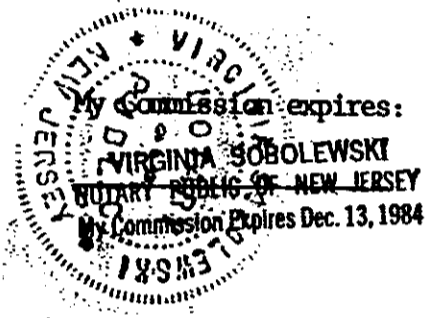
STATE OF NEW JERSEY :

COUNTY OF Burlington :

I, Virginia Sobolewski, a Notary Public in and for the State of New Jersey, County of Burlington, hereby certify that Howard H. HESS AND WIFE, JOYCE M. HESS, personally appeared before me this day and acknowledged the due execution of the foregoing and annexed instrument.

Witness my hand and notarial seal, this the 3rd day of Jan., 1984.

Virginia Sobolewski
NOTARY PUBLIC



STATE OF NORTH CAROLINA

New Hanover County
The Foregoing Certificate of

Virginia Sobolewski, a
Notary Public
is certified to be correct.

This the 19 day of Jan. 1984

Rebecca P. Tucker, Register of Deeds

By Richard P. Patton
Deputy

RULES AND REGULATIONS

OF

BEACH HAVEN CONDOMINIUM HOMEOWNER'S ASSOCIATION, INC.

The Association Rules and Regulations hereinafter enumerated shall be deemed in effect until amended by the Board of Directors of the Association, and shall apply to and be binding upon all unit owners. The unit owners shall, at all times, obey said Rules and Regulations and shall use their families, guests, invitees, servants, leasees and persons over whom they exercise control and supervision. Said Association Rules and Regulations are as follows:

1. All common areas must not be obstructed or encumbered or used for any purpose other than ingress and egress, to and from the premises; nor shall any carriages, bicycles, wagons, shopping carts, chairs, benches, tables or any other object of a similar type and nature be stored therein.
2. The personal property of all unit owners shall be stored within their town house units.
3. No garbage cans will be placed in any place except as provided by the Association. No linens, cloths, clothing, curtains, rugs, mops or laundry of any kind may be hung or left exposed outside of the living unit.
4. No unit owners shall allow anything whatsoever to fall from the windows, porches, or doors of the premises, nor shall he sweep or throw from the premises any dirt or other substance into any of the common areas.
5. Refuse and bagged garbage shall be deposited only in the area provided therefor.
6. No unit owner shall allow a boat, trailer, camper, motor home, etc., to remain in any part of the common area except where designated by the Association.
7. No unit owner or resident shall direct, supervise, or in any manner attempt to assert any control over any employees of the Association.
8. Servants and domestic help of the unit owners may not gather or lounge in the public areas of the buildings or grounds.
9. The parking facilities shall be used in accordance with the regulations adopted by the Board of Directors. No vehicles which cannot operate on its own power shall remain on the common area for more than twenty-four (24) hours, and no repair of vehicles shall be made on the common area.
10. All curtains, drapes, etc., placed on windows or sliding doors so as to be exposed to the outside shall be of a subdued color and pattern.
11. No unit owner shall make or permit any disturbing noises in the building by himself, his family, servants, employees, agents, visitors, and licensees, not do or permit anything by such persons that will interfere with the rights, comforts, or convenience of the unit owners. No unit owner shall play upon or suffer to be played upon any musical instrument, or operate or suffer to be operated, a phonograph, television, radio or sound amplifier, in his unit, in such manner as to disturb or annoy other occupants. No unit owner shall conduct or permit to be conducted, vocal or instrumental instructions at any time.

12. No radio or television installation, or other wiring, shall be made without the written consent of the Board of Directors. Any antenna or aerial erected or installed on the roof or exterior walls of the building, without the consent of the Board of Directors, in writing, is liable to removal without notice and at the costs of the unit owner for whose benefit the installation was made.

13. No sign, advertisement, notice or other lettering shall be exhibited, displayed, inscribed, painted or affixed, in, on or upon any part of the town house unit of Association property, by any unit owner or occupant without written permission of the Association. No door to door solicitation will be permitted.

14. No awning, canopy, shutter, or other projection, shall be attached to or placed upon the outside walls or roof of the building, without the written consent of the Board of Directors of the Association.

15. Outdoor cooking shall not be done under any covered roof, not on the Association property except in designated areas.

16. Complaints regarding the service of the Association shall be made in writing to the Board of Directors.

17. No inflammable, combustible, or explosive fluid, chemical or substance, shall be kept in any unit or limited common element assigned thereto or storage areas, except such as are required for normal household use.

18. Payments of assessments shall be made at the times and place designated by the Board of Directors or Management Firm. Payments made in the form of checks shall be made to the order of such party as the Management Firm shall designate.

19. Pets are discouraged but not excluded. Any pet taken outside for any reason shall be leashed.

20. No member of any family or their guests may go on or in any other town house unit without the specific invitation of the owner or occupant.

21. No member of any family unit or guests may go on or in any unit owned by the developer without the permission of the developer.

22. Landscaping (maintained by the Association dues) will be protected at all times.

23. The Board of Directors of the Association has the right to make additional Rules and Regulations as may be required from time to time. These additional Rules and Regulations shall be as binding as all other Rules and Regulations previously adopted.