

✓
W/C Box #108

Return to:
Founders Title
5100 West Copans Road, Suite 600
Margate, Florida
Harry Binnie

Jul-08-1998 01:37pm 98-259392
ORB 10507 Pg 874
| 000 | 01 | 10 | 11 | 001 | 01 | 01 | 11 | 000 | 11 | 001 | 01 | 101 | 11 | 100 | 11 | 010 | 1 | 000 |

**DECLARATION OF COVENANTS,
RESTRICTIONS AND EASEMENTS FOR
LEGACY**

Dated: June 10th, 1998

Prepared By:

Michael D. Joblove, Esq.
COSTON LICHTMAN & JOBLOVE
8211 West Broward Boulevard
Suite 310
Ft. Lauderdale, Florida 33324

DECLARATION OF COVENANTS,
RESTRICTIONS AND EASEMENTS
FOR
LEGACY

TABLE OF CONTENTS

		<u>Page</u>
Article 1:	<u>DEFINITIONS</u>	
1.01	Affiliate	2
1.02	Articles	2
1.03	Assessment(s)	2
1.04	Association	2
1.05	Board of Directors or Board	2
1.06	Bylaws	2
1.07	Common Assessment(s)	2
1.08	Common Expenses	2
1.09	Common Properties	3
1.10	County	3
1.11	Declarant	3
1.12	Declaration	3
1.13	Family	3
1.14	Guaranty Period	3
1.15	Improvement(s)	3
1.16	Individual Assessments	3
1.17	Institutional Mortgage	4
1.18	Institutional Mortgagee	4
1.19	Lot	4
1.20	Management Company	4
1.21	Master Association	4
1.22	Master Covenants	4
1.23	Members	4
1.24	Notice and Hearing	4
1.25	Notice of Lien	4
1.26	Owner	4
1.27	Person	5
1.28	Property	5
1.29	Property Plan	5
1.30	Project	5
1.31	Residential Property	5

1.32 Rules 5
 1.33 Special Assessment 5
 1.34 Supplemental Declaration 5

Article 2: OWNER'S PROPERTY RIGHTS; EASEMENTS

2.01 Owner's Easements of Enjoyment 6
 2.02 Delegation of Use 7
 2.03 Waiver of Use 7
 2.04 Title to the Common Properties 7
 2.05 Access 8
 2.06 Utilities 8
 2.07 Declarant 8
 2.08 Service 8
 2.09 Lot Line Encroachments 8
 2.10 Association 9
 2.11 Execution 9
 2.12 Drainage Easement 9

Article 3: MEMBERSHIP IN ASSOCIATION

3.01 Membership 10
 3.02 Co-Ownership of Lots 10

Article 4: VOTING RIGHTS

4.01 Classes of Voting Membership 10
 4.02 Declarant Control of Board; Turnover 11

Article 5: FUNCTIONS OF THE ASSOCIATION

5.01 Through Board Action 11
 5.02 Required Services 11
 5.03 Authorized Services 13
 5.04 Surface Water Management and Drainage 14
 5.05 Actions by Association 14

Article 6: COVENANT FOR ASSESSMENTS

6.01 Obligation for Assessments 15
 6.02 Common Assessments 16

6.03 Amount of Common Assessments;
When Payable 16

6.04 Declarant Guaranty of Assessments 16

6.05 Individual Assessments 17

6.06 Special Assessments 17

6.07 Notice for any Special Assessment 17

6.08 Proportionate Share of Assessment 17

6.09 Financial Reports 18

6.10 Assessment Roster and Notices 18

6.11 Due Dates for Special or Individual
Assessments 18

6.12 Working Capital Contribution 18

Article 7: EFFECT OF NON-PAYMENT OF ASSESSMENTS;
REMEDIES OF THE ASSOCIATION

7.01 Effect of Non-Payment of Assessments;
Remedies of the Association 19

7.02 Notice of Lien 20

7.03 Subordination of the Lien to
Institutional Mortgages 20

7.04 Foreclosure Sale 20

7.05 Curing of Default 20

7.06 Cumulative Remedies 21

Article 8: RIGHTS OF INSTITUTIONAL MORTGAGEES

8.01 General Lender Rights 21

8.02 Financial Statement 21

8.03 Amendments 21

8.04 Additional Lender Rights 21

Article 9: MAINTENANCE AND REPAIR OBLIGATIONS

9.01 Maintenance Obligations of Owners 22

9.02 Maintenance Obligations of
Association 23

Article 10: USE RESTRICTIONS 23

Article 11: DAMAGE OR DESTRUCTION TO COMMON PROPERTIES 25

Article 12: INSURANCE

12.01 Common Properties 26

12.02 Replacement or Repair of Project 27

12.03 Waiver of Subrogation 27

12.04 Liability and Other Insurance 27

Article 13: RENTAL RESTRICTION

13.01 Approval 28

13.02 Deposit 28

Article 14: GENERAL PROVISIONS

14.01 Enforcement 29

14.02 Severability 29

14.03 Term 29

14.04 Interpretation 30

14.05 Amendments 30

14.06 No Public Right or Dedication 31

14.07 Constructive Notice and Acceptance 31

14.08 Notices 31

14.09 No Representations or Warranties 31

14.10 Declarant Exemption 31

14.11 Information 32

14.12 Smith Farm 32

14.13 Voidability of Contracts 32

14.14 Assignability of Declarant's Rights 32

14.15 Cable Television Rights of Declarant 32

14.16 Priority of Documents 32

Article 15: ARCHITECTURAL CONTROL

15.01 Architectural Standards/Board Approval 33

15.02 Liability of the Board 33

15.03 Declarant's Exemption 33

15.04 Master Association Approval 33

EXHIBITS

- A - Legal Description of Property
- B - Legal Description of Lots
- C - Legal Description of Common Properties
- D - Articles of Incorporation
- E - Bylaws
- F - Property Plan

**DECLARATION OF COVENANTS,
RESTRICTIONS AND EASEMENTS
FOR
LEGACY**

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR LEGACY ("Declaration") is made this 10 day of JUNE, 1998, by MINTO COMMUNITIES, INC., a Florida corporation, its successors and assigns, (hereinafter referred to as the "Declarant").

R E C I T A L S :

A. Declarant owns certain real property located in Palm Beach County, Florida (hereinafter defined as the "Property"), which is more particularly described on Exhibit "A" attached hereto, and is graphically described on the "Property Plan" (as hereinafter defined) attached hereto as Exhibit "F."

B. Declarant is developing the Property as part of "Smith Farm", a planned residential community (hereinafter defined as the "Project").

C. In order to provide for the orderly development and efficient operation of the Property and to maintain the values thereof, Declarant intends to develop the Property pursuant to a general plan, subject to certain protective covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens and charges, all running with the Property as hereinafter set forth.

D. In connection with the foregoing, Declarant deems it desirable to create the Legacy Homeowners Association, Inc. (hereinafter referred to as the "Association"), a corporation not for profit, under the laws of the State of Florida, to which certain rights, powers, duties and obligations for the Property have been delegated and assigned, including, without limitation, operation, administration, maintenance and repair of portions of the Property, including the "Common Properties," as hereinafter defined, and administering and enforcing the provisions of this Declaration.

NOW, THEREFORE, Declarant hereby declares that the Property shall be hereafter owned, used, sold, conveyed, improved, encumbered, hypothecated, leased, demised and occupied, all subject to the covenants, restrictions, easements, reservations, conditions, regulations, burdens, liens, equitable servitudes and all other provisions of this Declaration as hereinafter set forth, which shall run with, benefit and burden all of the Property, and shall be binding on all parties having any right, title or interest in the Property, or any portion thereof, including the parties' heirs, personal representatives, successors and assigns.

ARTICLE 1
DEFINITIONS

1.01 "Affiliate" shall mean and refer to any "Person" (as hereinafter defined) which, directly or indirectly, has any ownership interest in Declarant or in which Declarant has any ownership interest, directly or indirectly.

1.02 "Articles" shall mean and refer to the Articles of Incorporation of the Association which have been filed in the office of the Secretary of the State of Florida, a copy of which is attached hereto as Exhibit "D," as such Articles may be amended from time to time.

1.03 "Assessment(s)" shall mean and refer to "Common Assessments," "Individual Assessments," and "Special Assessments" (as each is hereinafter defined) collectively, as the context may require.

1.04 "Association" shall mean and refer to Legacy Homeowners Association, Inc., a Florida corporation not for profit, its successors and assigns.

1.05 "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association.

1.06 "Bylaws" shall mean and refer to the Bylaws of the Association, which have been adopted by the Board, a copy of which is attached hereto as Exhibit "E," as the Bylaws may be amended from time to time.

1.07 "Common Assessment(s)" shall mean and refer to the charge against all Owners and their "Lots" (as hereinafter defined), representing their proportionate share of the routine Common Expenses of the Association.

1.08 "Common Expenses" shall mean and refer to the actual and estimated costs of ownership, maintenance, management, operation, repair and replacement of the Common Properties, including reserves for the foregoing to the extent adopted as part of the Association's budget, as provided in the Bylaws, including, without limitation: (a) unpaid Assessments; (b) the costs of any and all commonly-metered utilities, and other commonly-metered charges for the Common Properties; (c) costs of management, operation and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and other agents, employees, or independent contractors; (d) costs of all gardening and other services benefiting the Common Properties, including any recreational facilities which may be thereon; (e) costs of fire, casualty and liability insurance, worker's compensation insurance, and other insurance covering or connected with the Association or the Common Properties; (f) costs of bonding the members of the Board and the "Management Company" (as hereinafter defined); (g) taxes paid by the Association, including real property taxes for the Common Properties, if any; (h) amounts paid by the Association for the discharge of any lien or encumbrance levied against the

Common Properties, or portions thereof; (i) costs required to be paid for landscaping and road maintenance required by the County and (j) costs of any other items or expenses incurred by the Association for any reason whatsoever in connection with the Common Properties, the Association's rights or duties hereunder, and/or for the benefit of the Owners or the Property.

1.09 "Common Properties" shall mean and refer to those portions of the Property which are declared as being Common Properties in this Declaration or in any "Supplemental Declaration" (as hereinafter defined), including, where the context requires or permits, any "Improvements" (as hereinafter defined) thereon or any personal property owned by the Association and used or useful in connection with the operation of the Common Properties. Common Properties are for the common use and enjoyment of the Owners, subject to the rights hereunder of Declarant and others. Declarant hereby declares the property described in Exhibit "C" attached hereto to be the initial Common Properties.

1.10 "County" shall mean and refer to Palm Beach County, Florida, including all of its agencies, divisions, departments, attorneys or agents employed to act on its behalf.

1.11 "Declarant" shall mean and refer to Minto Communities, Inc., a Florida corporation, presently having its principal place of business in Broward County, Florida, and any assignee of Declarant's rights hereunder in accordance with Section 14.14 hereof.

1.12 "Declaration" shall mean this instrument, as it may be amended from time to time.

1.13 "Family" shall mean and refer to (i) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or (ii) a group of not more than three (3) persons not so related who maintain a common household on a Lot.

1.14 "Guaranty Period" shall mean and refer to the period during which Declarant has guaranteed to fund deficits in the Association's operating budget, as described in Section 6.04 hereof.

1.15 "Improvement(s)" shall mean and refer to all structures or artificially created conditions and appurtenances thereto of every type and kind located within the Property, including, but not limited to, buildings, fixtures, walkways, sprinkler pipes, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs and exterior air-conditioning and water-softener fixtures or equipment, if any.

1.16 "Individual Assessments" shall mean and refer to a charge against one or more Owners and their Lots, directly attributable to such Owner(s)' failure to duly perform their obligations hereunder, and the Association's enforcement of this Declaration against such Owner(s) and/or Lot(s), as further described in Section 6.05 hereof.

1.17 "Institutional Mortgage" shall mean and refer to any bona fide first mortgage encumbering a Lot which was made in favor of Declarant, a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, mortgage company or other lender who makes residential mortgage loans in the ordinary course of its business and is generally recognized in the community as an institutional lender. Institutional Mortgage shall also mean and include a mortgage held by (i) any lender having advanced funds to Declarant for the purpose of acquiring or developing the Property or (ii) the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Veterans Administration and Federal Housing Administration or any other agency of the United States of America holding, guaranteeing or issuing a first mortgage on a Lot.

1.18 "Institutional Mortgagee" shall mean and refer to the holder of any Institutional Mortgage.

1.19 "Lot" shall mean and refer to each separate parcel described on Exhibit "B" attached hereto, or any other property designated as a Lot in any Supplemental Declaration, together with any Improvements which may be constructed thereon.

1.20 "Management Company" shall mean and refer to the person, firm, or other entity employed by the Association as its agent to assist it in fulfilling or carrying out certain duties, powers, obligations, or functions of the Association.

1.21 "Master Association" shall mean and refer to Smith Farm Master Association, Inc., a Florida corporation not for profit.

1.22 "Master Covenants" shall mean and refer to the Declaration of Covenants Restrictions and Easements for Smith Farm dated September 24, 1996, recorded on September 30, 1996, in Official Records Book 9460, at Page 1631, of the Public Records of the County, as amended from time to time.

1.23 "Members" shall mean and refer to any Persons who are entitled to membership in the Association, as provided in Article 3 hereof.

1.24 "Notice and Hearing" shall mean and refer to written notice and a public hearing before a tribunal appointed by the Board, at which the Owner charged with a particular offense shall have an opportunity to be heard in person or by counsel at such Owner's expense and as otherwise provided in the Bylaws.

1.25 "Notice of Lien" shall mean and refer to the notice described in Section 7.02 hereof.

1.26 "Owner" shall mean and refer to a record owner of any percentage of the fee simple interest in a Lot, including Declarant, but excluding those Persons having an interest in a Lot merely as security for the performance of an obligation. For purposes of Article 10 of this Declaration only,

unless the context otherwise requires, the term Owner shall also include the Family, invitees, licensees, lessees and sublessees of any Owner, and any other permitted user or occupant of a Lot. If a Lot is owned by more than one Person, the term Owner shall mean each such Person, jointly and severally.

1.27 "Person" shall mean and refer to any of an individual, corporation, governmental agency, trust, estate, partnership, association, two or more persons having a joint or common interest, or any other legal entity with the legal right to hold title to real property.

1.28 "Property" shall mean and refer to that certain real property more particularly described on Exhibit "A" attached hereto, consisting of the "Residential Property," as hereinafter defined, and the Common Properties, as each may be amended in accordance with this Declaration.

1.29 "Property Plan" shall mean and refer to the graphic rendering of the Property attached hereto as Exhibit "F."

1.30 "Project" shall mean and refer to the entire planned residential community known as "Smith Farm", as such lands may be modified from time to time pursuant to the Master Covenants.

1.31 "Residential Property" shall mean and refer to all property within the Property which is not Common Properties, and which is not otherwise dedicated, restricted or limited for non-residential use. The initial Residential Property shall consist of the Lots described in Exhibit "B" attached hereto, as amended from time to time.

1.32 "Rules" shall mean and refer to the Rules and Regulations which are duly adopted by the Association from time to time.

1.33 "Special Assessment" shall mean and refer to a charge against all Owners and their Lots, representing their proportionate share of the cost incurred by the Association for: (i) reconstruction of any portion or portions of Improvements located on the Common Properties pursuant to the provisions of this Declaration; (ii) installation or construction of any capital Improvements on any portion of the Common Properties which the Association may from time to time authorize; or (iii) any other extraordinary expense of the Association, including, but not limited to, amounts necessary to pay shortages in Common Expenses of the Association, after collections of Common Assessments, as further described in Section 6.06 hereof.

1.34 "Supplemental Declaration" shall mean and refer to any declaration of covenants, restrictions and easements which may be recorded by Declarant for the purpose of supplementing or amending this Declaration or for the purpose of declaring certain portions of the Property as Common Properties or as Residential Property.

The foregoing definitions shall be applicable to this Declaration, as amended from time to time, and also to any Supplemental Declaration, unless specifically stated to the contrary herein or therein.

ARTICLE 2
OWNER'S PROPERTY RIGHTS; EASEMENTS

2.01. Owner's Easements of Enjoyment. Every Owner shall have a non-exclusive, common right and easement of ingress and egress and of enjoyment in, to and over, and use of, the Common Properties, which shall be appurtenant to and shall pass with title to every Lot, subject to the following conditions:

A. The right of the Association to reasonably limit the number of guests or invitees of Owners using the Common Properties at any one time.

B. The right of the Association to establish Rules pertaining to the use of the Common Properties, including, but not limited to, the right and obligation of the Association to enforce all parking and other restrictions within the Common Properties.

C. The Common Properties shall not be used for "private events" (i.e., functions to which all Members are not invited and in good faith encouraged to attend).

D. The right of the Association, in accordance with the Articles, Bylaws and this Declaration, with the vote or written assent of Members entitled to cast at least two-thirds of the votes of Members in the Association, to borrow money for the purpose of improving the Common Properties, in aid thereof, to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of such mortgagee shall be subordinate to the use rights of the Owners.

E. The right of the Association to suspend the right of an Owner to use the Common Properties (except means of ingress and egress) for any Owner, except Declarant or an Affiliate, for: (i) any period during which any Assessment against an Owner's Lot remains unpaid and delinquent; and (ii) a period not to exceed thirty (30) days for any other single infraction of this Declaration or the Rules of the Association, provided that any suspension of such rights to use the Common Properties based upon infractions other than non-payment of Assessments shall be made only by the Board after Notice and Hearing as provided in the Bylaws.

F. The right of the Association to dedicate, grant, release, convey, alienate or transfer all or any part of the Common Properties to any public agency, authority, utility or private party or entity. No such dedication, grant, release, conveyance, alienation or transfer shall be effective unless approved by Members entitled to cast at least two-thirds of the votes

of Members in the Association, except the granting of non-exclusive easements to public agencies or public utilities, including cable television, or for private purposes which do not materially adversely affect the rights of Owners to enjoy the Common Properties (as determined in the reasonable discretion of the Board), may be made by the Board without approval of the Members.

G. The right of Declarant (and its sales agents, customers and representatives) to the non-exclusive use of the Common Properties and the facilities thereof, without charge, for sales, marketing, advertising, display, signs, access, construction, ingress, egress, exhibit and any other activities or purposes.

H. The right of the Association to construct, replace or refinish any Improvement or portion thereof upon the Common Properties, in accordance with the provisions of this Declaration.

I. The right of the Association to replace destroyed trees or other vegetation and plant trees, shrubs and ground cover upon any portion of the Common Properties.

J. The rights of the Master Association and its members as set forth in the Master Covenants.

K. The right of Declarant to grant such other easements over the Common Properties as Declarant deems appropriate (which easements shall be similarly granted by the Association).

Anything to the contrary herein notwithstanding, no action authorized in subparagraphs (A), (B), (C), (D), (F), (G), (H) (I) or (K) above shall be taken without the prior written consent of Declarant as long as Declarant owns any Lot.

2.02. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Properties and facilities to the members of the Owner's Family, in accordance with the Bylaws. Any Owner may so delegate such rights to the Owner's tenants who reside on the respective Lot, subject to the Rules and other reasonable regulations imposed by the Board. However, no such delegation shall relieve the Owner from any of his obligations hereunder.

2.03. Waiver of Use. No Owner may be exempt from personal liability for Assessments duly levied by the Association, or cause a release of the Lot owned by the Owner from the liens and charges hereof, by waiver of the use and enjoyment of the Common Properties or by abandonment of the Owner's Lot.

2.04. Title to the Common Properties. After all Improvements anticipated to be constructed in the Project have been constructed and conveyed to purchasers, or sooner at the option of Declarant, Declarant shall convey to the Association the fee simple title to the Common Properties

