

IN THE RECORDS OF
JEFFREY K. BARTON
CLERK CIRCUIT COURT
INDIAN RIVER CO., FLA.

DOCUMENTARY STAMPS

DEED \$.70

NOTE \$

JEFFREY K. BARTON, CLERK
INDIAN RIVER COUNTY

375
12/13/94

**DECLARATION OF LANDSCAPE AND MAINTENANCE
EASEMENTS AND AGREEMENT**

THIS DECLARATION OF LANDSCAPE AND MAINTENANCE EASEMENTS AND AGREEMENT is entered into on the 13 day of December, 1994 by and between OCEAN COLONY PROPERTY OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation (hereinafter referred to as "OCEAN COLONY") and LA MER CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation (hereinafter referred to as "LA MER").

W I T N E S S E T H:

WHEREAS, OCEAN COLONY is the owner of certain property (hereinafter referred to as the "Easement Property") located within the Ocean Colony Subdivision in Indian River County, Florida, which is more particularly described as follows, to wit:

See EXHIBIT "A" attached hereto and incorporated herein by reference;

WHEREAS, LA MER owns certain property immediately to the south of and adjacent to the Ocean Colony Subdivision (hereinafter referred to as "La Mer Property"); and

WHEREAS, OCEAN COLONY desires to give, grant, and convey to LA MER an exclusive easement for purposes of landscaping and maintenance over and across the Easement Property, as above described; and

Prepared by and Return to:
James A. Taylor III, Esq.
Clem. Polackwich & Vocelle
2770 Indian River Blvd., Suite 501
Vero Beach, Florida 32960

0874475

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WHEREAS, OCEAN COLONY and LA MER wish to set forth the terms and conditions under which OCEAN COLONY will give, grant, and convey the said easement over the Easement Property to LA MER.

NOW THEREFORE, for and in consideration of the sum of Ten and No/100 (\$10.00) Dollars in hand paid and other good and valuable consideration, including the mutual promises and sums of money set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto declare and agree as follows:

1. The above recitals are affirmed as being true and correct and are hereby incorporated herein by reference.

2. On the basis of and pursuant to the terms and conditions set forth herein, OCEAN COLONY does hereby give, grant, and convey to LA MER and to LA MER's successors and assigns, including successors in title, an exclusive easement for landscaping and maintenance over, across, and upon the Easement Property. The Easement Property is graphically depicted on EXHIBIT "B" attached hereto and incorporated herein by reference.

3. LA MER shall landscape the Easement Property with plantings and foliage satisfactory to OCEAN COLONY and to The Town of Indian River Shores, all in accordance with a landscape plan to be submitted to and approved by both OCEAN COLONY and The Town of Indian River Shores. Furthermore, LA MER shall at all times maintain the said plantings and foliage located upon the Easement Property in a high quality and in a first class manner.

4. In the event LA MER fails to comply with the terms and conditions of this Declaration and Agreement, OCEAN COLONY may terminate this Declaration and Agreement by filing in and among the

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public records of Indian River County, Florida an instrument styled as a "Termination of Declaration of Landscape and Maintenance Easements and Agreement" wherein OCEAN COLONY shall state in affidavit format that LA MER has failed to comply with the terms and conditions set forth herein and as such that said Declaration and Agreement is revoked and terminated. Upon such filing, this instrument and all rights, remedies, duties, and obligations set forth herein shall cease and be deemed extinguished.

In the event LA MER disputes OCEAN COLONY's finding that LA MER has failed to comply with the requirements set forth herein, LA MER may institute an action in the circuit court in Indian River County, Florida and request that said court determine whether in fact LA MER has failed to fulfill LA MER's obligations and duties pursuant to this instrument. In such an action, the prevailing party shall be entitled to reimbursement from the non-prevailing party of its reasonable attorneys' fees and costs, including at both the trial and appellate levels.

5. This Declaration and Agreement and the rights and obligations specified herein are binding upon and shall inure to the benefit of the heirs, legal representatives, successors, and assigns, including successors in title, of the parties hereto. This Declaration and Agreement shall also be deemed to be a covenant running with the lands described herein, including, but not limited to the La Mer Property and the Easement Property. The easements granted hereby shall burden the property owned by OCEAN COLONY and shall benefit the La Mer Property.

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6. Time is of the essence as to all matters pertaining to this Declaration and Agreement.

7. This Declaration and Agreement shall be construed in accordance with the laws of the State of Florida. Venue for any action hereunder shall lie in Indian River County, Florida.

8. In the event of any litigation arising out of this Declaration and Agreement, the prevailing party in such litigation shall be entitled to reasonable attorney's fees and costs, including appellate attorney's fees and costs, not limited to taxable costs.

9. In the event any single term or paragraph of this Declaration and Agreement is determined to be illegal or unenforceable by a court of competent jurisdiction, such declaration of illegality or unenforceability shall not affect the remaining terms and paragraphs of this Declaration and Agreement, provided such declaration of illegality or unenforceability does not destroy the intent of the parties, as specified in this Declaration and Agreement.

10. This instrument shall be recorded in and among the public records of Indian River County, Florida.

11. A waiver of a right or an interest of any party to this Declaration and Agreement on any single occasion shall not constitute a waiver of said right or interest on any future occasion or occasions.

12. Each party hereto shall grant such reasonably required further assurances to the other party to this Declaration and Agreement, including the execution of any additional or necessary

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documents, in order to fulfill the intent of the parties and the understanding between the parties, as set forth herein.

13. LA MER shall bear the costs and expenses associated with the preparation and recording of this instrument.

IN WITNESS WHEREOF, the undersigned have caused these presents to be executed on the dates set forth below.

Signed, sealed and delivered in the presence of:

Douglas G Distl
(name: DOUGLAS G. DISTL)

Marilyn J. Sifford
(name: MARILYN J. SIFFORD)

Douglas G Distl
(name: DOUGLAS G. DISTL)

Marilyn J. Sifford
(name: MARILYN J. SIFFORD)

"OCEAN COLONY"

OCEAN COLONY PROPERTY OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation

By: [Signature]
(name: [Name])
title: President

Attest: [Signature]
(name: JAMES R. ADAMS)
title: Secretary

Signed, sealed and delivered in the presence of:

Nancy R. Wilson
(name: NANCY R. WILSON)

Douglas G. Distl
(name: DOUGLAS G. DISTL)

Nancy R. Wilson
(name: NANCY R. WILSON)

Douglas G. Distl
(name: DOUGLAS G. DISTL)

"LA MER"

LA MER CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation

By: [Signature]
(name: [Name])
title: President

Attest: [Signature]
(name: [Name])
title: Secretary

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STATE OF FLORIDA)
) ss:
COUNTY OF Indian River)

I HEREBY CERTIFY that before me, a Notary Public, personally appeared MARK C. HERRING, and JAMES R. ADAMS as President and Secretary, respectively, of OCEAN COLONY PROPERTY OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation, to me known to be the persons described in and who executed the foregoing instrument and who acknowledged before me that they executed the same for the purposes therein set forth for and on behalf of said corporation. I further state that I have examined the current Florida driver's licenses of the said persons, have confirmed said persons' identities, and that said persons did not take an oath.

WITNESS my hand and official seal in the state and county last aforesaid this 23 day of January, 1994.

Marilyn J. Sifford
Notary Public, State of Florida
(name: MARILYN J. SIFFORD)
Serial Number: CC119758

My commission expires:

(Affix Seal)



MARILYN J SIFFORD
My Commission CC119758
Expires Jun. 19, 1995

STATE OF FLORIDA)
) ss:
COUNTY OF Indian River)

I HEREBY CERTIFY that before me, a Notary Public, personally appeared George Nichols, and Janet Drier as President and Secretary, respectively, of LA MER CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation, to me known to be the persons described in and who executed the foregoing instrument and who acknowledged before me that they executed the same for the purposes therein set forth for and on behalf of said corporation. I further state that I have examined the current Florida driver's licenses of the said persons, have confirmed said persons' identities, and that said persons did not take an oath.

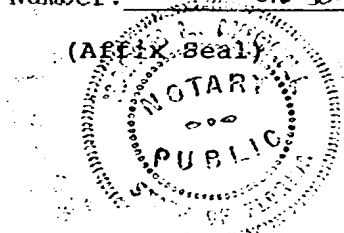
WITNESS my hand and official seal in the state and county last aforesaid this 13 day of December, 1994

Karen L. Merrill
Notary Public, State of Florida
(name: Karen L. Merrill)
Serial Number: 076-50.4463

My commission expires:

(Affix Seal)

11429



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EXHIBIT "A"

LEGAL DESCRIPTION

A PORTION OF TRACT "C" , A PORTION OF LOT 20 , AND A PORTION OF LOT 21 , OCEAN COLONY SUBDIVISION AS RECORDED IN PLAT BOOK 13 , PAGE 100 , OF THE PUBLIC RECORDS OF INDIAN RIVER COUNTY , FLORIDA , BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS :


BEGIN AT THE SOUTHWEST CORNER OF TRACT "C" OF SAID OCEAN COLONY SUBDIVISION , SAID POINT ALSO BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD A-1-A ; THENCE RUN NORTHWESTERLY ALONG THE ARC OF A CIRCULAR CURVE CONCAVE TO THE NORTHWEST , (SAID LINE ALSO BEING THE WEST LINE OF TRACT "C") , WHICH RADIUS POINT BEARS S 71°44'46" W , 5779.58 FEET , THROUGH A CENTRAL ANGLE OF 0°24'23" AN ARC DISTANCE OF 41.00 FEET ; THENCE N 71°20'22" E , 24.00 FEET TO A POINT SITUATED ON LOT 20 ; THENCE S 18°39'38" E , 7.02 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE SOUTHEAST , WHICH RADIUS POINT BEARS N 71°20'22" E , 35.00 FEET ; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 89°00'10" AN ARC DISTANCE OF 54.37 FEET TO A POINT ON THE SOUTH LINE OF LOT 21 , SAID POINT ALSO BEING ON THE NORTH LINE OF TRACT "C" , MARINER VILLAGE SUBDIVISION AS RECORDED IN PLAT BOOK 13 , PAGE 99 , OF THE PUBLIC RECORDS OF INDIAN RIVER COUNTY , FLORIDA ; THENCE S 72°20'12" W ALONG THE NORTH LINE OF SAID TRACT "C" , MARINER VILLAGE SUBDIVISION , 58.55 FEET TO THE POINT OF BEGINNING .

SAID PARCEL CONTAINING 1,243.376 SQUARE FEET (0.028 ACRES) .

PREPARED BY

DAVID M. JONES
Professional Land Surveyor

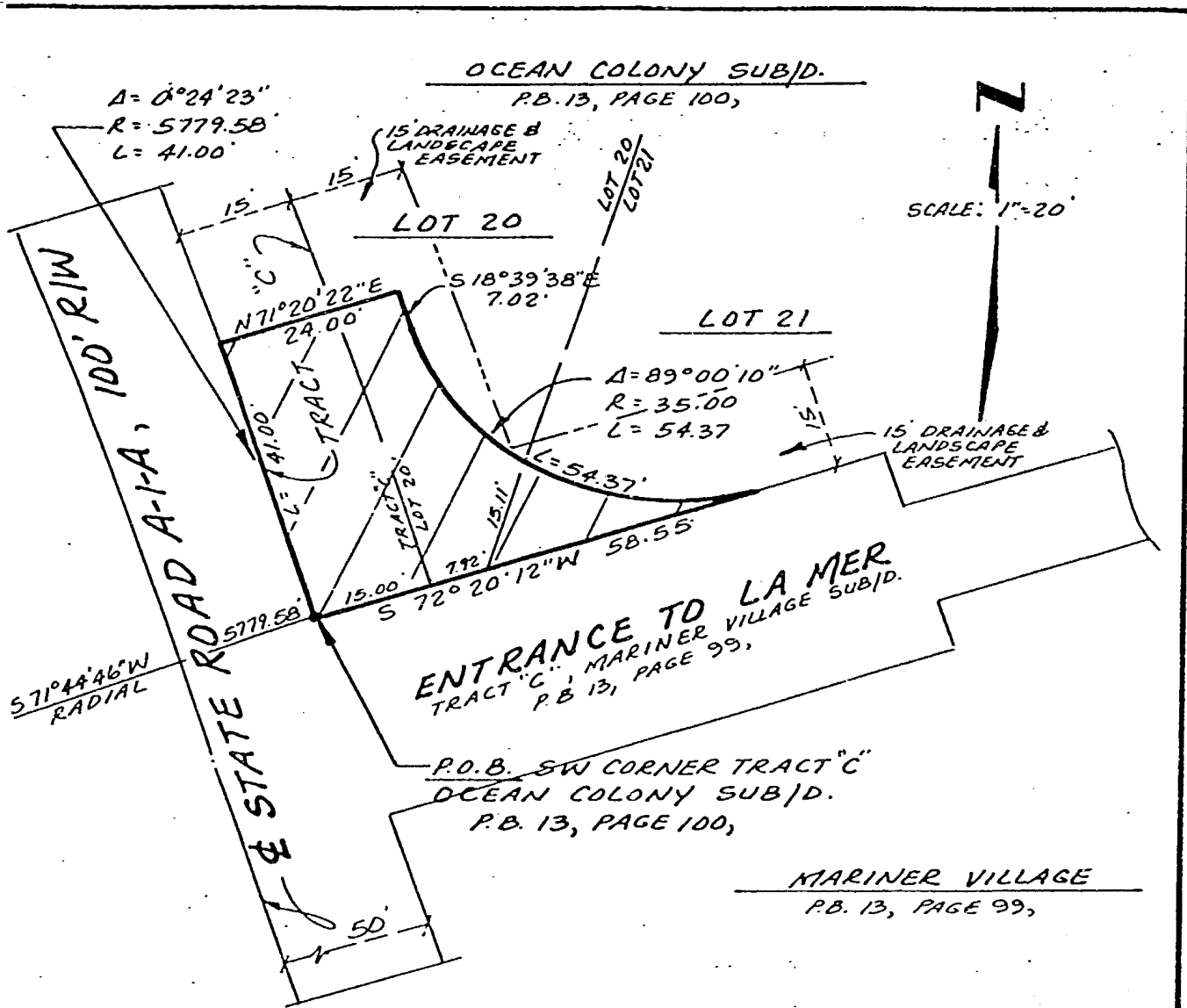
I certify that this drawing meets the Minimum Technical Standards pursuant to Chapter 472.023 , Florida Statutes .


David M. Jones, P.L.S.
Registered Land Surveyor
State of Florida No. 3909

94-207

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EXHIBIT "B"



SEE SHEET 2 OF 2 FOR LEGAL DESCRIPTION EXHIBIT "B."

DRAWN BY: P.R.B.
 CHECKED BY: P.M.J.
 DATE: 7/19/94

LEGEND		
Δ = DELTA	P.O.B. = POINT OF BEGINNING	$\&$ = CENTERLINE
R = RADIUS	SUBD. = SUBDIVISION	R/W = RIGHT OF WAY
L = LENGTH		P.B. = PLAT BOOK

David M. Jones
 Professional Land Surveyor

SKETCH OF DESCRIPTION

2455 14th Ave.
 Vero Beach, FL 32960
 (407) 567-9875

SHEET

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