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SUPPLEMENT  
TO THE  
DECLARATION AND GENERAL PROTECTIVE COVENANTS  
FOR PELICAN LANDING  
(UNIT THREE)

2906761

THIS SUPPLEMENT is made this 15 day of AUGUST, 1990 by WESTINGHOUSE BAYSIDE COMMUNITIES, INC., a Florida corporation, a wholly-owned subsidiary of WESTINGHOUSE COMMUNITIES OF NAPLES, which was Declarant of that particular DECLARATION AND GENERAL PROTECTIVE COVENANTS FOR PELICAN LANDING (formerly "Pelican's Nest") and is hereinafter referred to as Declarant.

WITNESSETH:

WHEREAS, Declarant has recorded the Declaration and General Protective Covenants for Pelican's Nest (hereinafter referred to as Declaration) at Official Records Book 2030, Pages 663 through 713, inclusive, of the Public Records of Lee County, Florida, as amended; and

WHEREAS, the Declaration applies to and encumbers all of Pelican's Nest Unit One as recorded in Plat Book 41, Pages 58 through 60, inclusive, of the Public Records of Lee County, Florida and other lands by virtue of amendments thereto; and

WHEREAS, the Declaration, as amended, provides in Section 2.3(a) thereof the "Declarant shall have the right, and the power, but neither the duty or the obligation, in its sole discretion, and by its sole act, to add additional portions of real property ("Additional Lands") to the Committed Property whether or not such real property is within the current boundaries of Pelican Landing by recording in the Public Records of Lee County, Florida, an instrument ("Supplement") subjecting such Additional Lands to this Declaration"; and

WHEREAS, Declarant desires to subject all of Pelican Landing, Unit Three, as recorded in Plat Book 46, Pages 61 through 65 of the Public Records of Lee County, Florida (hereinafter defined and referred to as The Neighborhood) to the Declaration for those reasons set forth in the preamble to the Declaration; and

WHEREAS, Declarant has determined that in order to create a quality development within The Neighborhood, new provisions applicable to The Neighborhood shall be imposed for the preservation of the property values of the owners therein,

NOW THEREFORE, Declarant hereby declares that the Additional Lands described as Pelican Landing Unit Three, as recorded in Plat Book 46, Pages 61 through 65 of the Public Records of Lee County, Florida shall be held, transferred, sold, conveyed and occupied subject to the Declaration, and the supplemental restrictions, covenants, servitudes, impositions, easements, charges and liens hereinafter set forth.

ARTICLE I  
DEFINITIONS

1. "BUILDING HEIGHT" shall mean the vertical distance measured from the finished grade of the LOT or the minimum base flood elevation, whichever is greater, to the mean height level between eaves and ridge of gable, hip and gambrel roofs.

2. "DECLARANT" shall mean and refer to WESTINGHOUSE BAYSIDE COMMUNITIES, INC., a Florida corporation presently having its principal place of business in Lee County, Florida, its successors or assigns of any or all of its rights under this Declaration.

3. "DWELLING UNIT" shall mean and refer to any residential unit intended for occupancy by one family or household.

4. "GENERAL COVENANTS" shall mean and refer to the DECLARATION AND GENERAL PROTECTIVE COVENANTS as recorded in Official Records Book 2030, at Pages 663 through 713, inclusive, of the Public Records of Lee County, Florida, and its amendments, and as it may from time to time be amended.

5. "NEIGHBORHOOD" shall mean and refer to the real property, or any portion thereof, described as: Pelican Landing Unit Three, as recorded in Plat Book 46, Pages 61 through 65, inclusive of the Public Records of Lee County, Florida.

6. "OWNER" shall mean and refer to any person or persons, entity or entities, who are the record owner or owners of any fee interest in the NEIGHBORHOOD, their heirs, successors, legal representatives or assigns.

7. "LOT" or "LOTS" shall mean any one of or all of those platted lots in the NEIGHBORHOOD.

8. "SUPPLEMENT" shall mean this Supplement to the Declaration and General Protective Covenants for Pelican Landing (Unit Three).

ARTICLE II  
RESTRICTIONS

1. USE RESTRICTIONS

a. The LOTS may be used for detached single family DWELLING UNITS and for no other purposes. No business buildings may be erected on the LOTS and no business may be conducted on any part thereof, nor shall any building or portion thereof be used or maintained as a professional office. No structures shall be erected or placed in or on any lakes or water management areas in or adjacent to the NEIGHBORHOOD without the prior written consent of the DECLARANT.

b. Notwithstanding the above provisions, the DECLARANT may, in its sole discretion, permit one or more DWELLING UNITS to be used or maintained as a sales office or model for the promotion of real estate in Pelican Landing. Any such permission must be granted by DECLARANT in writing prior to such use and may include restrictions on the type and nature of sales, promotion activities and promotional materials that may be utilized.

c. No building, structure or other improvement shall be placed in or on the NEIGHBORHOOD unless and until DECLARANT has issued its written approval. In obtaining said written approval, OWNER or any other person applying shall comply with all requirements and procedures of Section 3.2 of the GENERAL COVENANTS.

d. Except as approved by DECLARANT in writing, awnings, canopies, shutters and similar additions shall not be attached or affixed to the exterior of any DWELLING UNIT or structure.

e. No decorative objects such as weather vanes, statuary, sculptures, birdbaths, fountains and the like shall be placed or installed in or on the NEIGHBORHOOD without the prior written approval of the DECLARANT.

f. Roof stacks and vents shall be placed so as not to be clearly or readily visible from the front of the DWELLING UNIT and shall be painted to match the approved roof color. Solar collectors or devices shall be so located as not to be readily visible from surrounding streets or LOTS.

g. No garbage, trash or refuse containers shall be placed within the front yard of any LOT or in any right-of-way or street abutting any LOT, and all LOTS must provide for garbage, trash and refuse removal to be made from the side or rear of any LOT. Provided, however, that garbage, trash and refuse removal shall be permitted to be made from the front yard if side or rear yard removal service is unavailable.

h. Motor homes, trailers, boats and motorcycles shall not be permitted to be parked or stored in the NEIGHBORHOOD or on any LOT unless kept fully enclosed inside a structure.

i. No outside satellite receptor dishes or devices or any other type of electronic device now in existence or that may hereafter come into existence, that is utilized or designed to be utilized for the transmission or reception of electronic or other type of signal shall be allowed without the prior written approval of DECLARANT.

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2. BUILDING SETBACK LINES, SIZE OF BUILDINGS AND BUILDING HEIGHT

a. No DWELLING UNIT, structure or building shall be erected within the following building setback lines:

- i. Front LOT line: 25 feet
- ii. Side LOT lines:
 

One Story	7½ feet
Two Story	10 feet
Corner	12½ feet

iii. Rear LOT line: 20 feet except for waterfront sites which must be measured from control elevation. Setback for screen enclosures may be reduced to 10 feet as long as no easement is encroached upon.

Provided, however, that minimal screens or walls for privacy and enclosures for mechanical equipment may be erected within the side and/or rear setback lines upon the prior written approval of DECLARANT.

b. Minimum floor area per DWELLING UNIT shall be Nineteen hundred (1900) square feet of living area. The method of determining square foot area of proposed buildings and structures or additions and enlargement thereto, shall be to multiply the outside horizontal dimensions of the building or structure at each floor level. Garages, porches, patios, terraces and other similar areas and structures shall not be taken into account in calculating the minimum area required.

c. No building or structure of any kind shall exceed thirty (30) feet in height.

d. All yards abutting a street shall be front yards. Four-sided corner LOTS shall have two front and two side yards. Setback lines for corner LOTS and odd-shaped LOTS shall be as near as possible as set out above, except that variations may be authorized by DECLARANT at the time plans for buildings are approved, and a copy of such plans, including the plot plan, or a record of the determination shall be kept on file by the DECLARANT to establish the setback lines as approved.

e. When two or more LOTS are acquired and used as a single building site under a single OWNER, the side LOT lines shall refer only to the lines bordering on the adjoining property.

3. SPAS, HOT TUBS AND SWIMMING POOLS, ENCLOSURES, FENCES AND WALLS

a. All enclosures, including spa, hot tub and swimming pool enclosures (screen or otherwise), must be approved in writing by DECLARANT prior to construction. No flat screen enclosures, unless part of an approved mansard screen enclosure, are permitted, and the sloped

portions of the screen enclosure shall have a pitch compatible with the pitch of the roof of the DWELLING UNIT to which it is attached. Bare aluminum screening and screen enclosures will not be permitted. Bronze colored screen enclosures are encouraged. All others must be approved in writing by DECLARANT.

b. The erection and use of walls and fences is discouraged. If a wall and/or fence is approved in writing by DECLARANT it shall be located in a manner to limit the area enclosed to that necessary to afford privacy to outdoor activity areas. No wall or fence shall be constructed with a height of more than six (6) feet above the existing ground level of adjoining property. No walls or fence shall be erected or placed on any property line. All LOTS with fences or walls shall have a landscape buffer between the wall or fence and the adjacent LOT property line.

c. A wall, fence or enclosure shall only be constructed of materials and with a design and color as approved by DECLARANT in writing. No chain link fencing shall be allowed except as an approved enclosure for an approved tennis court.

#### 4. LANDSCAPING

a. Each OWNER shall submit to DECLARANT for approval a landscape and irrigation plan for the LOT (including adjacent rights-of-way and area between the property line of a LOT and any abutting bike path, road or water management area). It is DECLARANT'S intent that the existing native vegetation be retained to the maximum extent possible. Clearing shall be done selectively, retaining wherever possible the native vegetation. Each OWNER'S landscape plan shall indicate OWNER'S plan for the retention and/or clearing of the existing, native vegetation, in accordance with Article II, Section 13 of this SUPPLEMENT.

b. Prior to making any change, variation or deviation from the approved landscaping plan, an OWNER shall first obtain DECLARANT'S written approval of the change, variation or deviation. Any additional landscaping to be installed after occupancy of any DWELLING UNIT requires written approval of DECLARANT prior to installation.

c. Each OWNER shall install or retain the landscape material as approved by DECLARANT. All landscaping, trees, shrubs and lawns shall be maintained by OWNER in good and living condition at all times.

d. The OWNER of a LOT shall be responsible for maintaining and keeping in good working order the landscape irrigation system installed in or on the OWNER'S LOT and adjacent right-of-way and areas between the property line of a LOT and any abutting bike path, road or water management area.

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5. GARAGE, CARPORTS AND STORAGE AREAS

a. No garage shall be erected which is separated from the DWELLING UNIT. Each DWELLING UNIT shall have a garage which shall accommodate no less than two automobiles. Repair of vehicles shall be permitted only inside the garage. All garages must be constructed with doors that are equipped with operating, automatic door openers and closers. The garage doors shall remain closed except upon entering or exiting the garage.

b. Carports shall not be permitted or erected within the NEIGHBORHOOD.

c. No unenclosed storage area shall be permitted. No enclosed storage area shall be erected which is separated from the DWELLING UNIT. Fully enclosed storage facilities for garbage and trash containers shall be required for each DWELLING UNIT.

6. MAIL BOXES

All mail boxes must be installed and maintained in accordance with the standards established by DECLARANT. The design, material and location of all mail boxes must be first approved in writing by DECLARANT.

7. ROOFS

a. No flat roofs or mansard roofs are permitted on a DWELLING UNIT. The major roof form of a DWELLING UNIT shall have a minimum pitch of 6:12.

b. Due to the unique character of the NEIGHBORHOOD, only natural wood split shakes, natural wood sawn shingles, concrete tile in dark or neutral earth-tone colors, clay tile or slate shall be permitted.

8. NEIGHBORHOOD DRIVEWAYS

a. All driveways shall be designed and constructed only in accordance with the design and with the materials as approved by DECLARANT in writing and must be maintained in a clean, neat and attractive manner. Driveway surfaces may consist only of approved materials with neutral colors. No asphalt or gravel driveways shall be permitted.

b. Driveways shall be constructed in such a manner so that the flare of the driveway at the adjoining street pavement does not extend beyond a straight line projection of the side lot line of the LOT served by the driveway. In no event shall the driveway surface be less than five (5) feet from the side LOT line.

9. LEASE

No DWELLING UNIT shall be leased except on an annual basis. No DWELLING UNIT shall be used or sold on a "time-share" basis.

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10. CONSTRUCTION

During any construction activity within the NEIGHBORHOOD, the construction area shall be maintained in a neat and orderly manner and OWNER shall provide for trash and debris containment and removal. No temporary trailers shall be placed on any LOT without the prior written approval of DECLARANT. Construction vehicles shall be parked so as not to block or interfere with the use of the streets or roads within the NEIGHBORHOOD.

11. LIGHTING

No exterior lighting fixtures, structures or improvements shall be placed in, on or about the NEIGHBORHOOD, unless the written approval of DECLARANT has been obtained.

12. SIGNS

All signage in or on the NEIGHBORHOOD shall comply with the DECLARANT'S sign standards and shall be approved in writing by DECLARANT prior to being installed.

13. NATIVE VEGETATION

To the extent possible, OWNER shall protect suitable native vegetation to be integrated into the final landscape plan. The design review process and construction activities shall include these steps:

- a. Site-by-site review by OWNER or builder with DECLARANT of existing native vegetation.
- b. Review by DECLARANT of tree clearing plans.
- c. Review by DECLARANT of building placement so as to minimize disturbance and removal of existing native vegetation.
- d. Installation of protective identification of native vegetation during construction.
- e. Transplanting of suitable trees removed from construction areas.

ARTICLE III  
GENERAL PROVISIONS

1. PROPERTY UNITS

In accordance with Article 5.3 of the GENERAL COVENANTS, DECLARANT hereby assigns one(1) Property Unit to each platted LOT for a total of One Hundred One (101) Property Units assigned to the NEIGHBORHOOD.

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2. CONFLICT

In the event of any conflict among the provisions of the GENERAL COVENANTS and the provisions of this SUPPLEMENT, the DECLARANT reserves the right and the power to resolve any such conflict, and its decision shall be final.

3. AMENDMENT

The DECLARANT may, in its sole discretion, modify, amend, waive or add to this SUPPLEMENT or any part thereof. The power of amendment, however, shall be limited to modification or enlargement of existing covenants which shall not substantially impair the general and uniform plan of development originally set forth herein.

4. SUPPLEMENT TO DECLARATION RUNS WITH THE LAND

The covenants, conditions, restrictions and other provisions under the SUPPLEMENT shall run with the land and bind the property within the NEIGHBORHOOD and shall inure to the benefit of and be enforceable by the DECLARANT for a term of thirty (30) years from the date this SUPPLEMENT is recorded, after which time these provisions shall automatically be extended for successive periods of ten (10) years. Any time after the initial thirty (30) year period provided for in this Section, these provisions may be terminated or modified in whole or in part by the recordation of a written instrument executed by the then OWNERS of two-thirds (2/3) of the DWELLING UNITS agreeing to the termination or modifications.

5. WAIVER

Any waiver by DECLARANT of any provision of this SUPPLEMENT or breach hereof must be in writing and shall not operate or be construed as a waiver of any other provision or subsequent breach.

6. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this SUPPLEMENT TO THE DECLARATION AND GENERAL PROTECTIVE COVENANTS FOR PELICAN LANDING UNIT THREE, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portion thereof.

IN WITNESS WHEREOF, WESTINGHOUSE BAYSIDE COMMUNITIES, INC., a Florida corporation, does hereby execute this SUPPLEMENT TO THE DECLARATION AND GENERAL PROTECTIVE COVENANTS FOR PELICAN LANDING (UNIT THREE) in its name by its undersigned, authorized officers and affixes its corporate seal hereto, this 15<sup>th</sup> day of AUGUST, 1990, at Fort Myers, Florida.



90 SEP 12 PM 1:37

WESTINGHOUSE BAYSIDE COMMUNITIES, INC.  
a Florida corporation

(SEAL)

BY: [Signature]  
Byron R. Koste, President

ATTEST: [Signature]  
Louis H. Hoegsted, Assistant Secretary

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SUPPLEMENT TO THE DECLARATION AND GENERAL PROTECTIVE COVENANTS  
FOR PELICAN LANDING (UNIT THREE)

STATE OF FLORIDA )  
COUNTY OF LEE )

The foregoing instrument was acknowledged before me this 15th day of August,  
1990, by BYRON R. KOSTE and LOUIS H. HOEGSTED, President and Assistant Secretary  
respectively, or WESTINGHOUSE BAYSIDE COMMUNITIES, INC., a Florida corporation,  
on behalf of the corporation.

[Signature]  
Notary Public  
My Commission Expires:

(SEAL)

NOTARY PUBLIC, STATE OF FLORIDA.  
MY COMMISSION EXPIRES: JAN. 23, 1994.  
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