

RECORD VERIFIED - CHARLIE GILBERT, CLERK
BY: TUSHEA, D.C.

This instrument prepared by
and return to:
Vivien N. Hastings, Esq.
801 Laurel Oak Drive, #500
Naples, FL 33963

3988265

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FORTY-FOURTH SUPPLEMENT
TO THE
AMENDED AND RESTATED DECLARATION
AND GENERAL PROTECTIVE COVENANTS
FOR
PELICAN LANDING
(SITE 1, FUTURE UNIT TWENTY-FIVE)

THIS SUPPLEMENT is made this 25th day of June, 1996, by WCI COMMUNITIES LIMITED PARTNERSHIP, successor to WCN Communities, Inc. (formerly Westinghouse Communities of Naples, Inc.) a Delaware limited partnership, which was Declarant of that particular AMENDED AND RESTATED DECLARATION AND GENERAL PROTECTIVE COVENANTS FOR PELICAN LANDING and is hereinafter referred to as DECLARANT.

WITNESSETH:

WHEREAS, DECLARANT has recorded the Amended and Restated Declaration and General Protective Covenants for Pelican Landing (hereinafter referred to as DECLARATION) at Official Records Book 2198, Pages 1873 through 2026, inclusive, of the Public Records of Lee County, Florida, as amended; and

WHEREAS, Article VIII, Section 1, of the DECLARATION provides that DECLARANT shall have the unilateral right, privilege and option, from time to time at any time until all property described therein has been subjected to the DECLARATION or December 31, 2020, whichever is earlier, to subject to the provisions of this DECLARATION and the jurisdiction of the Association any portion of real property, by filing in the Public Records of Lee County, Florida a Supplemental Declaration annexing such property; and

WHEREAS, in accordance with the terms of the DECLARATION, DECLARANT desires to subject all of the real property described in Exhibit "A" attached hereto (hereinafter defined and referred to as the PROPERTY 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 PROPERTY, new provisions applicable to the PROPERTY shall be imposed for the preservation of the property values of the owners' therein.

NOW THEREFORE, DECLARANT hereby declares that real property described in Exhibit "A" attached hereto, shall be held, transferred, sold, conveyed and occupied subject to the DECLARATION, and the supplemental restrictions, covenants, servitude's, 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 PROPERTY or minimum base flood elevation, whichever is greater, to the mean high level between eaves and ridge of gable, hip and gambrel roofs.
2. "DECLARANT" shall mean and refer to WCI COMMUNITIES LIMITED PARTNERSHIP, a Delaware limited partnership, presently having its principal place of business in Lee County, Florida, its successors or assigns of any or all of its rights under the DECLARATION and the PELICAN COLONY DECLARATION.
3. "DECLARATION" shall mean and refer to the AMENDED AND RESTATED GENERAL COVENANTS AND GENERAL PROTECTIVE COVENANTS FOR PELICAN LANDING as recorded in Official Records Book 2198 at Pages 1873 through 2026, inclusive, of the Public Records of Lee County, Florida, as amended, and as may be amended from time to time.
4. "DWELLING UNIT" shall mean and refer to any residential unit intended for occupancy by one family or household.
5. "PROPERTY" shall mean and refer to the real property, or any portion thereof, described as Site 1, future Pelican Landing Unit Twenty-five, as more particularly described in Exhibit "A" attached hereto.
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 PROPERTY, their heirs, successors, legal representatives or assigns.

7. "SUPPLEMENT" shall mean this Forty-fourth Supplement to the Amended and Restated Declaration and General Protective Covenants.

ARTICLE II
RESTRICTIONS

1. **USE RESTRICTIONS**

a. The PROPERTY may be used for a detached single family DWELLING UNIT and for no other purposes. No business buildings may be erected on the PROPERTY 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 PROPERTY without the prior written consent of the DECLARANT.

b. Notwithstanding the above provisions, the DECLARANT may, in its sole discretion, permit the DWELLING UNIT 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 PROPERTY unless and until DECLARANT has issued its written approval. In obtaining said written approval, OWNER or any other person applying shall comply with all the requirements and procedures of Article XI of the DECLARATION.

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

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

f. No recreation equipment such as basketball goals and playground equipment shall be placed or installed in or on the PROPERTY without the prior written approval of the DECLARANT.

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g. 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 located so as not to be readily visible from surrounding streets and shall not be installed until such time as the DECLARANT has approved in writing the location of the solar collectors on the structure.

h. No garbage, trash or refuse containers shall be placed within the front yard of any PROPERTY or in any right-of-way or street abutting the PROPERTY, and OWNER must provide for garbage, trash and refuse removal to be made from the side or rear of the PROPERTY. 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.

i. Motor homes, trailers, boats, motorcycles, vans or trucks used for commercial purposes, shall not be permitted to be parked or stored in or on the PROPERTY unless kept fully enclosed inside a structure.

j. No outside satellite receptor dish or device or any other type of electronic device now in existence, that is utilized or designed to be utilized for the transmission or reception of electronic or other type of signal shall be allowed unless approved by DECLARANT in writing.

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

a. No DWELLING UNIT, structure or building shall be erected within any easement areas nor within the following building setback lines:

i.	Front PROPERTY line:		30 feet
ii.	Side PROPERTY line:	One Story	15 feet
		Two Story	15 feet
iii.	Rear PROPERTY line: (approximately lake control elevation)	Primary Structure	25 feet
		Accessory Structure	20 feet

b. Minimum floor area for the DWELLING UNIT shall be thirty-five hundred (3,500) square feet of living area. The method of determining square foot area of proposed buildings and structures or additions and enlargements 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.

d. No DWELLING UNIT or structure of any kind shall exceed thirty-five (35') feet in height without the written approval of DECLARANT.

e. All yards abutting Messina Court shall be front yards, all yards abutting a lake shall be rear yards and all others shall be side yards.

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. All enclosures must be architecturally integrated with the DWELLING UNIT. Structural members of enclosure must be constructed of a material consistent with the DWELLING UNIT. 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 frame and screening is required for the PROPERTY. All enclosures must be approved in writing by DECLARANT.

b. The erection of walls and fences is discouraged. No walls and/or fences shall be approved by DECLARANT within the building setbacks, except as required to screen air-conditioning, pool equipment or trash.

c. A wall, fence or enclosure required to screen air-conditioning, pool equipment or trash shall only be constructed of materials and with a design and color as approved by DECLARANT in writing and such materials and colors shall be identical or complimentary to the structure. No chain link fencing shall be allowed.

d. No privacy gate(s) shall be constructed or installed on the PROPERTY.

4. LANDSCAPING

a. OWNER shall submit to DECLARANT, for its review and approval, a landscape and irrigation plan for the PROPERTY (including adjacent rights-of-way, and area between the property line and any abutting road or water's edge). 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. OWNER'S Landscape Plan shall indicate OWNER'S plan for the retention and/or clearing of any existing native vegetation, in accordance with Article II, Section 14 of this SUPPLEMENT. DECLARANT reserves the right to comment and require changes should special conditions or situations exist.

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

c. 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. OWNER shall be responsible for maintaining and keeping in good working order the landscape irrigation system installed in or on the PROPERTY and adjacent right-of-way and areas between the property line of the PROPERTY and any abutting road or water's edge.

e. Surface water runoff must be properly handled, and cause no ponding, erosion or unfavorable impact on adjacent property and must conform to water management system criteria as permitted by the Bayside Improvement Community Development District.

5. GARAGE, CARPORTS AND STORAGE AREAS

a. No garage shall be erected which is separated from the DWELLING UNIT unless enclosed within a courtyard or otherwise attached or integrated into the design of the structures. The 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. Garage doors must either not face the street or where that is unavoidable, be adequately buffered with landscaping or other design elements.

b. Carports shall not be permitted within the PROPERTY unless specifically incorporated into the design of the structures and so approved.

c. No unenclosed storage area shall be permitted. No enclosed storage area shall be erected which is separated from the principal structure unless incorporated into the design of the structure and so approved. Fully enclosed storage facilities for garbage and trash containers shall be required for the DWELLING UNIT.

6. MAIL BOX

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

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7. ROOF

a. No flat roof or mansard roof shall be permitted on the DWELLING UNIT, unless otherwise approved in writing by DECLARANT. The major roof form of the DWELLING UNIT shall have a minimum pitch of 6:12 unless otherwise approved in writing by DECLARANT.

b. All roof materials shall be approved in writing by DECLARANT prior to construction.

8. COLORS

All exterior colors, including original and future color changes proposed by OWNER, must be approved first by DECLARANT in writing. In addition, DECLARANT reserves the right to require that a color sample be painted by OWNER on the residence before written approval is granted.

9. DRIVEWAY

a. The driveway 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. The driveway surface may consist only of approved materials. Asphalt, plain concrete or gravel driveways shall not be permitted.

b. The 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 PROPERTY served by the driveway. In no event shall the driveway surface be less than five (5) feet from the side PROPERTY line unless a variance is granted by the DECLARANT.

10. LEASE

The DWELLING UNIT shall be leased only on an annual basis. The DWELLING UNIT shall not be used or sold on a "time-share" basis.

11. CONSTRUCTION

a. During any construction activity on the PROPERTY, the construction area shall be maintained in a neat and orderly manner. No temporary trailers shall be placed on the PROPERTY without written approval of DECLARANT. Construction vehicles shall be parked so as not to block or interfere with the streets adjacent to the PROPERTY.

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b. When the physical construction of the structure is started, said construction shall be performed diligently and completed within a reasonable time. If for any reason the structure is not completed within one (1) year from the commencement of construction, as determined by DECLARANT, then the DECLARANT may, after ten (10) days notice to the OWNER, enter the PROPERTY and take such steps as are necessary to correct any undesirable condition. The OWNER of the PROPERTY shall be liable for all costs incurred in such action and the total costs thereof will be a lien on the PROPERTY, which lien may be foreclosed in the same manner as is provided for the enforcement of Special Assessment liens as set forth in the DECLARATION.

c. If during any construction activity on the PROPERTY, or at any other time, any of the adjacent properties are damaged or destroyed, including without limitation, any street streetlights, sidewalks, landscaping or street signs located thereon, the OWNER of the PROPERTY shall be liable for all costs incurred in repairing or replacing such property, and the total costs thereof shall be assessed against the OWNER as a Special Assessment, the lien for which may be foreclosed in the same manner as is provided for the enforcement of Special Assessments as set forth in the DECLARATION.

12. LIGHTING

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

13. SIGNS

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

14. 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. Submittal of a vegetation survey prepared by a surveyor, which accurately locates existing trees 6" in diameter at breast height (DBH) or greater and significant shrub masses.
- b. Review by OWNER or builder with DECLARANT of existing native vegetation.
- c. Review by DECLARANT of tree-clearing plans.

- d. Review by DECLARANT of building placement so as to minimize disturbance and removal of existing native vegetation.
- e. Installation of protective barriers and identification of native vegetation before commencement of construction.
- f. Transplanting of suitable trees removed from construction areas.
- g. Any substantial changes to the approved landscape plan following installation of the landscaping on a PROPERTY shall be resubmitted to DECLARANT for its prior written approval.

15. DRAINAGE AND GRADING

a. Surface water runoff from the PROPERTY must be controlled and maintained so as not to cause any ponding, erosion or unfavorable impact on the property adjacent to the PROPERTY. The PROPERTY is required to drain toward the drainage system facilities provided by DECLARANT and is required to meet all conditions of all applicable permits including, but not limited to, those issued by the South Florida Water Management District (hereinafter referred to as "SFWMD") and Lee County.

b. OWNER shall submit for DECLARANT'S approval a drainage and grading plan for the PROPERTY. No change of the drainage or grading in the PROPERTY adjacent to any lake or water management area shall be allowed without the prior written approval of the DECLARANT.

c. Finished floor elevation specifications are intended to help satisfy the requirements of all applicable governmental agencies, to help ensure adequate drainage, to help minimize the loss of native vegetation, to help ensure the adequate availability of affected home insurance coverages (i.e. flood), and to help ensure aesthetic harmony among the first floor elevations of structures in a given vicinity. The minimum elevation of the lowest habitable finished floor for the DWELLING UNIT shall meet or exceed the higher of the requirements of: a) the flood plain elevation as set by the Federal Emergency Management Agency as shown on the flood insurance rate maps; b) the minimum finished floor elevation per SFWMD; and c) the minimum finished floor elevation requirements of Lee County. The maximum elevation of the lowest habitable finished floor shall be 6" above the highest minimum required elevation, unless specifically approved in writing by DECLARANT. Foundations with stem walls that would otherwise be visible will be required to be screened by backfilling, landscaping, or other approved screening.

d. Surface water drainage and management, including but not limited to storm water storage and capacity, shall conform to the overall water management requirements of the SFWMD and meet with the approval of DECLARANT and, where applicable, the Bayside Improvement Community Development District.

ARTICLE III
GENERAL PROVISIONS

1. PROPERTY UNITS

In accordance with Article 1, Section 34 of the DECLARATION, DECLARANT hereby assigns one (1) PROPERTY UNIT to the PROPERTY.

2. CONFLICT

In the event of any conflict among the provisions of the DECLARATION 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, delete, 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. DECLARANT shall have the right and authority to approve exceptions or variations from these restrictions, from time to time in accordance with Article XI of the DECLARATION, without notice or liability to OWNERS of other DWELLING UNITS or any persons or authority whatsoever.

4. SUPPLEMENT TO GENERAL COVENANTS 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 PROPERTY 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 providing for the termination or modifications executed by the OWNER of two-thirds (2/3) of the PROPERTY 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 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, WCI COMMUNITIES LIMITED PARTNERSHIP, a Delaware limited partnership, does hereby execute this SUPPLEMENT in its name by its undersigned, authorized officer, this 25th day of JUNE, 1996.

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WITNESSES:

WCI COMMUNITIES LIMITED PARTNERSHIP, a Delaware limited partnership

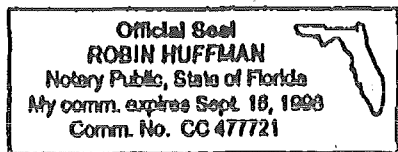
[Signature]
Print name: Robin Huffman

By: [Signature]
Jerry H. Schmoyer
Senior Vice President

[Signature]
Print name: Vivian H. [unclear]

STATE OF FLORIDA)
COUNTY OF COLLIER)

The foregoing instrument was acknowledged before me this 25 day of June, 1996, by Jerry H. Schmoyer, Senior Vice President, of WCI Communities Limited Partnership, a Delaware limited partnership, on behalf of the partnership. He is personally known to me.



[SEAL]

[Signature]
Notary Public
Print: Robin Huffman
My Comm. Expires: _____

LEGAL DESCRIPTION

COLONY ESTATES - LOT 1

A tract or parcel of land located in the southeast one-quarter of Section 8 and the northeast one-quarter of Section 17, Township 47 South, Range 25 East, Lee County, Florida, being more particularly described as follows:

COMMENCE at the southeast corner of Section 8, Township 47 South, Range 25 East, Lee County, Florida; thence run N 89°25'51" W along the south line of said Section 8 for 471.23 feet; thence run S 54°45'09" W for 46.66 feet to the POINT OF BEGINNING; thence continue S 54°45'09" W for 119.48 feet to a point of curvature; thence run along the arc of said curve to the right of radius of 70.00 feet (chord bearing N 70°37'03" W) (chord length 114.16 feet) (delta 109°15'36") for a distance of 133.49 feet to a point of reverse curvature; thence run along the arc of said curve to the left of radius 222.89 feet (chord bearing N 21°16'28" W) (chord length 41.07 feet) (delta 10°34'22") for a distance of 41.13 feet to a point of reverse curvature; thence run along the arc of said curve to the right of radius 1910.40 feet (chord bearing N 28°09'28" W) (chord length 26.89 feet) (delta 00°48'23") for a distance of 26.89 feet; thence run N 65°45'09" E for 185.36 feet; thence run S 30°22'42" E for 124.58 feet to the POINT OF BEGINNING.

Containing 0.60 acres, more or less.

Subject to easements, reservations or restrictions of record.

Bearings hereinabove mentioned are based on the south line of Section 8, Township 47 South, Range 25 East as bearing N 89°25'51" W.

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