

TO: Jeff Scott  
26 pages

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ALVA C. WISE  
DECLARATION OF UNIT OWNERSHIP  
THE OCEANS CONDOMINIUMS  
NAGS HEAD, NORTH CAROLINA

Coastal Development Group, a North Carolina partnership, does hereby state and declare:

Section 1. Statement of Submission.

A. Coastal Development Group is the record owner of the land hereinafter described and hereby declare and submit the same to the condominium form of ownership and use in accordance with Chapter 47A of the General Statutes of North Carolina, entitled Unit Ownership Act.

1. The name by which the Condominium is to be identified is "The Oceans", located in the Town of Nags Head, Dare County, North Carolina.

2. The legal description of the land which is included in and submitted to Condominium ownership is located in the Town of Nags Head, Nags Head Township, Dare County, North Carolina and more particularly described in "Exhibit A" attached hereto and incorporated herein as if more fully set forth.

Section 2. Definitions. All terms shall have the meaning as set out in Chapter 47A of the General Statutes of North Carolina and in addition thereto and for clarification, the following terms shall have the following meanings:

A. "Apartment Unit" means "Condominium Unit" or "Unit" and is synonymous therewith as defined in N.C.G.S. 47A-3(12).

B. "Association" or "Association of Unit Owners" means all of the unit owners acting as a group in accordance with the By-Laws and Declaration. As to The Oceans Condominiums, this term means The Oceans Homeowners Association, Inc., a nonprofit corporation organized and existing under the laws of the State of North Carolina.

C. "Articles" means the Articles of Incorporation of The Oceans Homeowners Association, Inc.

D. "Building" means a building, or a group of buildings, each building containing two or more units, and comprising a part of the property.

E. "By-Laws" means the By-Laws of The Oceans Homeowners Association, Inc.

F. "Common Areas" or "Common Elements" means all that portion of the Condominium property which is not included in the individual Condominium units and as further defined in N.C.G.S. 47A-3(2), except those items listed in paragraphs 'h' therein, unless specifically set out in this section.

G. "Common Expenses" means expenses for which the Condominium unit owners are liable to the Association as defined in the North Carolina Unit Ownership Act and in the Condominium documents and includes:

1. All sums lawfully assessed against the unit owners by the Association of Unit Owners;
2. Expenses of administration, maintenance, repair or replacement of the common areas and facilities, and Association owned property;
3. Expenses agreed upon as common expenses by the Association of Unit Owners;
4. Expenses declared common expenses by the provisions of Chapter 47A of the General Statutes, or by the Declaration or the By-Laws;
5. Hazard insurance premiums, if required.

H. "Common profits" means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deduction of the common expenses.

ALVA C. WISE  
Attorney at Law  
Kitty Hawk, NC

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I. "Condominium" means the ownership of single units as a multi-unit structure with common areas and facilities.

J. "Declaration" means the instrument, duly recorded, by which the property is submitted to the provisions of Chapter 47A of the General Statutes, as hereinafter provided, and as such declaration from time to time may be lawfully amended.

K. "Developer" means Coastal Development Group, a North Carolina partnership qualified to transact business in the State of North Carolina.

L. "Limited common areas and facilities" means and includes those common areas and facilities which are agreed upon by all the unit owners to be reserved for the use of a certain number of units to the exclusion of the other units, such as special corridors, stairways, sanitary services common to the units of a particular floor, and the like.

M. "Majority" or "majority of unit owners" means the owners of more than fifty (50%) percent of the aggregate interests in the common areas and facilities as established by the Declaration, assembled at a duly called meeting of the unit owners.

N. "Person" means individual, corporation, partnership, association, trustee, or other legal entity.

O. "Property" means and includes the land, the buildings, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended to be submitted to the provisions of this chapter.

P. "Owner" means Coastal Development Group.

Q. "Recordation" means to file or record in the Office of the Register of Deeds in the county where the land is situated, in the manner provided by law for recordation of instruments affecting real estate.

R. "Unit" or "condominium unit" means an enclosed space consisting of one or more rooms occupying all or part of a floor in a building of one or more floors or stories regardless of its designated use and shall include such accessory spaces and areas as may be described in the Declaration, such as garage space, storage space, balcony, terrace or patio, provided it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare.

S. "Unit designation" means the number, letter or combination thereof designating the unit in the Declaration.

T. "Unit owner" means a person, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns a unit within the building.

Section 3. Building Description. A description of the Condominium Building is set forth on an attachment to this Declaration labeled "Building Description" and "Exhibit D".

Section 4. Apartment Unit Designation and Description. There are nine (9) condominium unit apartments in the condominium building, each apartment being designated by a numerical figure, consisting of three digits. The third digit indicates the floor level with the lowest floor being designated "1" and the second and third designated "2" and "3", respectively. The second or middle digit is a zero (0). The first digit represents the stack with the number "1" signifying the Northeast stack, "2" signifying the middle stack and "3" signifying the Southwest stack.

Each of the condominium living units shall be known and designated by the number shown for each unit on the Floor Plans Sheet. Each unit shall consist of an enclosed space designated as a dwelling occupying one floor in a building as shown on the plats recorded in the Dare County Registry and lying between the unfinished surface of the floor and the unfinished surface of the ceiling of each floor or story of the building and between the interior finished surface on the inside of each unit. The balcony adjoining each unit shall be a part thereof and shall be bounded horizontally by vertical planes coinciding with the interior surface of the railings, and the exterior surface of the wall of the building, and extending vertically from the top of the unfinished floor

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of the balcony to a horizontal plane in an extension of the bottom of the unfinished ceiling of the unit.

Each condominium unit shall include the exclusive right to all space and facilities located within the area above described for each such unit including, but not limited to, partitions, doors, windows, plumbing, electric and other facilities located within that condominium unit, except such elements hereinafter described as general common elements.

Each apartment unit shall have access over a common area walkway leading to the center deck and pool area.

### Section 5. Common Elements, Areas and Expenses Related Thereto.

A. The general common elements or areas located in The Oceans Condominiums shall be as follows:

1. Except as excluded in this Section 5, all of the land and the premises above described in Section 1 hereof, including all appurtenant rights thereto, shall be general common elements. All facilities located underground shall be general common elements, including any septic tank installation and associated pumps, tanks, drainfields, and lines, and waste treatment facilities and systems associated therewith.

2. At the ground level and extending thereupwards, all of the area of said premises not included in the condominium units as described in Section 4 hereof and all facilities not located in said condominium areas, including pool and center deck area, shall be general common areas.

3. Any lighting facilities, equipment and wiring installed to illuminate the above general common elements and all electric lines, both primary and secondary, leading to but exclusive of any individual unit electric meter, shall also be general common elements.

4. In addition, those items set out in N.C.G.S 47A-3(2), except as herein reserved or excepted, shall be general common elements.

5. Also included as general common elements are water supply lines to the individual common units, vent lines, plumbing facilities, sanitary sewerage lines, waste pipes and vents, located outside the individual condominium units.

B. Each condominium unit or apartment owner shall own a share in the common elements and in any surplus funds possessed by The Oceans Condominiums, and shall be liable for the common expenses as follows:

<u>UNIT NO.</u>	<u>AMOUNT</u>	<u>PROPORTIONATE SHARE</u>	
101	\$105,000.00	11.0228%	
102	109,000.00	11.4376	
103	115,000.00	12.0672	
201	98,000.00	10.2833	
202	105,000.00	11.0178	
203	109,000.00	11.4376	
301	98,000.00	10.2833	
302	105,000.00	11.0178	
303	109,000.00	11.4376	
9 Units	\$953,000.00	100.00%	TOTAL

### Section 6. Limited Common Elements or Areas.

There are no limited common elements or areas in The Oceans Condominiums.

### Section 7. Easements.

A. Perpetual Non-Exclusive Easement in Common Areas. The common elements or areas shall be, and the same are hereby declared to be subject to a perpetual non-exclusive easement which easement is hereby created, in favor of all of the apartment or unit owners in the condominium for their use and for the

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use of their immediate families, guests, invitees and licensees, and for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended. In addition, this easement shall run in favor of the developer, the Condominium Association, and all unit owners, and may be used for the providing of electric power, telephone, sewer, water, and other utility services and lighting facilities, including but not limited to television transmission facilities, security services, and facilities connected therewith. The owners, for themselves, their heirs and assigns and the Association herein described reserve the right to impose upon the common elements henceforth and from time to time such easements and cross easements for any of the foregoing purposes as they deem to be in the best interest of and necessary and proper for, the owners of apartments and units in The Oceans Condominiums.

B. Encroachment Easement. The entire condominium property, including common areas and individual condominium units or apartments shall be subject to easements for encroachments which now exist, caused by the settlement or movement of the building, or caused by minor inaccuracies in construction or reconstruction, which encroachments shall be permitted to remain undisturbed and which said easement shall run in favor of each individual condominium unit owner, the Association and the developer.

C. Easement for Recreation, Parking, Access, Egress and Ingress. There is hereby conveyed and reserved a non-exclusive easement of access, egress and ingress to and from the condominium building and U.S. Highway 158 Business and the Atlantic Ocean and for other purposes herein expressed over, upon and across all of the lands dedicated to unit ownership and described in Section 1 of this Declaration.

The herein conveyed easement shall be subject to such regulations and rules as to the use thereof as may be promulgated by the Association from time to time, which said regulations may control and regulate parking, assignment of parking spaces, walkways, driveways and passageways. The aforesaid easement is also subject to the right of the Association and the owners to construct, build or place thereon such recreational facilities as, but not limited to a swimming pool as in the discretion of the owners or the Association may be deemed desirable.

D. Easement for Construction. There is retained, by the owners, a construction easement over, upon and across the common elements or areas and also, over, upon and across those lands set out and described in Paragraph C of this Section for the purposes of constructing improvements on the properties now owned by the owners, said easement to run in favor of the owners, their heirs, and assigns, their contractor and subcontractors, laborers, and materialmen. This easement shall expire and become null and void upon completion of the permanent improvements on said properties.

E. Easements for Utilities, Sewerage and Waste Treatment Facilities. There is conveyed hereby an easement of right of way in and to the lands described in Paragraph C of this Section, for the benefit of the condominium unit owners and the Association, for the construction, operation and maintenance of all utility lines, and pipes, sewerage lines, septic tanks, waste treatment facilities, pumps, drain lines and facilities related thereto, which said easement shall also inure to the benefit of the owners, and all future property owners located or to be located in the tract owned by the owners.

#### Section 8. Statement of Purpose and Restrictions as to Use.

A. The Oceans Condominiums are residence-type condominiums and shall be used for single-family residencies, vacation or resort living units by the unit owner, his family, servants and guests, or tenants and lessees, their servants and guests, and for no other purposes. No condominium unit may be used for a commercial, professional, or home business enterprise or as a hotel or motel, provided, however, that this section will not prevent any unit owner from renting or leasing his condominium unit either himself or through his agent.

B. Each condominium unit is subject to alienation, mortgage or transfer as is any other real property located within the State of North Carolina, however, no condominium unit owner may mortgage or convey by deed of trust his apartment or condominium unit or convey the same as collateral, to any person, firm or corporation except as said conveyance, mortgage or deed of trust shall be a first lien deed of trust or first mortgage or a purchase money mortgage or deed of trust on the condominium unit, unless prior approval is obtained from

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the Association.

C. The space within any of the condominium units and common elements shall not be further subdivided and any instrument, whether a conveyance, mortgage, deed of trust or otherwise, which describes only a portion of the space within any apartment shall be deemed to describe the entire apartment unit owned by the person, firm or corporation executing such instrument.

D. No condominium unit owner shall show any sign, advertisement or notice on any of the common elements, windows, porches, or balconies, or upon his condominium unit and shall erect no exterior antenna or antenna upon any portion or any part of his apartment or on any of the common elements.

E. An individual condominium unit owner may keep a pet or pets in his unit, but only under the regulations as promulgated by the Association from time to time, and no person may keep any other animals, livestock, or poultry nor may any of the same be raised, bred or kept upon any portion of the condominium property, including the common elements, balconies and terraces. The Association shall have the authority to declare any pet or pets a nuisance and may cause the owner thereof to remove the same from the condominium property.

F. No apartment or unit owner shall permit or suffer anything to be done or kept in his unit which will increase the insurance rates on his unit or the common elements, or which will obstruct or interfere with the rights of other unit owners or use the unit in a manner which creates noxious odors or otherwise; nor shall an individual unit owner commit or permit any nuisance, immoral or illegal act in his unit, or on the common elements.

G. No trailer, tent, storage shed, garage or other similar outbuilding or structure shall be placed on the property at any time, either temporarily or permanently, excepting that individual boat trailers, not exceeding the size of one parking space, may be permitted provided said parking space or area is properly assigned to the individual unit owner who owns the said boat trailer or with the express written consent of any other unit owner for the use of his assigned parking space therefor. This restriction shall not apply to the owners, their contractor, subcontractors, laborers or materialmen until such time as all apartment or condominium units have been constructed and sold in the Oceans Condominiums.

H. No condominium unit owner shall make structural modifications or alterations in his unit or the permanent fixtures therein unless he has previously obtained written approval therefor, in writing from the Board of Directors of the Association.

I. Unit owners shall abide by and be subject to such rules and regulations as may be adopted by the Association and as may be set out herein or in the By-Laws of the Association as the same from time to time may be amended.

#### Section 9. Use and Transfer of Parking Spaces.

A. The owner shall assign the use of two (2) particular parking spaces to a particular condominium unit at the time the unit is originally acquired from the owner. The assignment of use shall be made by describing the particular parking space by reference thereto in a book entitled "Parking Space Assignments" which book shall be maintained by the owner and at such time as the owner transfer all authority to the Association, which said book shall be for the purpose of listing each assignee of each parking space and the transfer thereof. Upon a conveyance of or the passing of title to the condominium unit to which said parking space is assigned, the owner of the said unit making the conveyance shall deliver notice of transfer thereof to the Association which shall thereupon cause to be executed a new assignment in the assignment book.

B. Parking spaces may be separately transferred upon the following conditions:

1. At any time a parking space may be surrendered or transferred by a unit owner to the Association.

2. The use of a parking space may be transferred by a unit owner to any other unit owner within the condominium provided that written notice thereof, executed by the transferor and the transferee shall be submitted to the Association which shall record such transfer in the assignment book.

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3. The Association shall have the absolute right to assign parking spaces assigned or transferred to the Association and requests for the assignment of parking spaces held by the Association shall be considered by the Association on a first come, first served basis or on such other arrangement as the Board of Directors may designate for allocation of parking spaces even to the extent of taking no action on such subject.

C. No trucks used for commercial purposes, or trucks over one-half ton capacity may be parked overnight. Only vehicles bearing current license and registration tags may be parked overnight. The Association shall have the right to authorize the towing away of any violating vehicles with costs to be borne by the owner or operator thereof.

Section 10. Maintenance and Alteration of Apartments.

A. The Association shall maintain, repair and replace all portions of the condominium building, except interior surfaces and walls, contributing to the support of the apartment building, which portions shall include but not be limited to the outside walls of the apartment building and all fixtures, including plumbing and electrical fixtures, on the exterior thereof; boundary walls of apartments; floor slabs and roofs; and load-bearing piers and load-bearing walls.

B. The responsibility of the apartment unit owner shall be:

1. To maintain, repair and replace at his expense all portions of his apartment unit except the portions to be maintained, repaired and replaced by the Association.

2. Not to paint, or otherwise decorate or change the appearance of any portion of the exterior of the condominium building.

3. To repair any frozen pipes, repair any stopped sewer and sink lines, to repair any heating and air conditioning equipment, whether located within an apartment unit or on a limited common element, and to replace any broken window panes or doors that serve an individual apartment unit.

4. To promptly report to the Association any defect or need for repairs, the responsibility for which is that of the Association.

C. Neither a unit owner nor the Association shall make any alteration in the portions of an apartment unit or the building which is to be maintained by the Association, or remove any portion thereof, or make any additions thereto, or do anything which would jeopardize the safety or soundness of the building or impair any easement, without first obtaining approval in writing of owners of all apartment units in the condominium building.

Section 11. Maintenance and Alterations of Common Elements and Association Property.

A. The maintenance and operation of the common elements, and property, real and personal, owned by the Association shall be the responsibility and expense of the Association.

B. After the completion of the improvements including the common elements which are contemplated by this Declaration, there shall be no alteration or further improvements of the real property constituting the common elements without prior approval in writing by the owners of not less than 75% of the common elements and any such alteration or improvement shall not directly interfere with the rights of any unit owner, without first obtaining his written consent. There shall be no change in the shares and rights of any unit owner in the common elements which are altered or further improved, whether or not such unit owner contributes to the cost thereof, except by an Amended Declaration.

Section 12. Assessments.

A. Assessments against apartment unit owners for common expenses shall be made pursuant to North Carolina General Statutes Section 47A-12 and the By-Laws of the Association shall be allocated as set forth in Section 5, Paragraph B of this Declaration.

B. Any sums assessed by the Association for the share of the common

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expense chargeable to any unit, and remaining unpaid for a period of thirty (30) days or longer, shall constitute a lien on such apartment unit when filed for record in the Office of the Clerk of Superior Court of Dare County by the Association under the provisions of Articles 8 of Chapter 44 of the North Carolina General Statutes and any amendments or supplements thereto. The lien created herein shall be prior to all other liens except (a) liens for real estate taxes due and unpaid, (b) all sums unpaid on deeds of trust and other encumbrances recorded against the unit prior to the docketing of this lien and (c) materialmen's and mechanic's liens.

C. A lien created pursuant to Paragraph B above may be foreclosed by suit by the Board of Directors of the Association, acting on behalf of the apartment unit owners, in like manner as a foreclosure of a deed of trust or mortgage of real property. The Board of Directors of the Association, acting on behalf of the apartment unit owners, may maintain a suit to recover a money judgement for unpaid common expenses without foreclosing or waiving the lien securing said common expenses. The unit owner shall be responsible for all court costs, interest and reasonable attorney's fees incurred in the collection, by foreclosure or otherwise, of said lien for common expenses. Except for purchasing at foreclosure as herein stated, the Association shall not purchase or own a condominium unit.

D. Any sum assessed by the Association for the share of the common expenses due prior to the acquisition of title to an apartment unit pursuant to a foreclosure proceeding of a mortgage or deed of trust shall not be assessed against the mortgage or deed of trust of record who forecloses said mortgage or other purchaser of the apartment unit as a result of the foreclosure of a mortgage. Any sums assessed against the apartment unit which is the subject of a foreclosure of a mortgage shall be collectible, from the former owner, or if not collectible, from all apartment unit owners, including the purchaser at the foreclosure sale, in the proportions which their shares in the common elements bear to each other.

E. No apartment unit owner may exempt himself from contributing toward the common expenses by waiver of the use or enjoyment of the common elements and facilities or by abandonment of the apartment unit belonging to him.

Section 13. Association. The operation of the condominium shall be by The Oceans Condominium Association, Inc., hereinafter called the Association, a non-profit corporation under the laws of North Carolina which shall be organized and shall fulfill its functions pursuant to the following provisions.

A. The members of the Association shall be the condominium unit owners.

B. The Association shall be incorporated under the Articles of Incorporation in the form attached as "Exhibit B", but the Articles of Incorporation may be amended as permitted by law without amending this Declaration.

C. The initial By-Laws of the Association shall be in the form attached as "Exhibit C", but may be amended as therein provided or as permitted by law without amending this Declaration, except as required by law.

D. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to such member's apartment unit.

E. Whenever the decision of an apartment unit owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person, in person or by proxy who would cast the vote of such owner if in an Association meeting. Where any unit is owned as a tenancy in common or as a tenancy by the entirety, said tenants may determine between or among themselves how the vote to which they are entitled shall be cast, but the chairman of the meeting of the Association shall not accept any division of a vote that said owners would otherwise be entitled to cast if said tenants do not unanimously agree between or among themselves as how their vote would be cast.

Section 14. Insurance.

A. Insurance policies upon the condominium property covering the items described in Paragraph B of this Section shall be purchased by the Association for the benefit of the Association and the apartment unit owners and their

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mortgagees as their interests may appear. Such policies and endorsements shall be issued in the name of and deposited with the Board of Directors of the Association as trustee for each of the apartment unit owners in the percentages of interest of each apartment unit owner established in this Declaration in Section 5.

**B. Insurance shall cover the following:**

1. All buildings and improvements upon the land and all personal property included in the common elements shall be insured in an amount equal to the maximum insurable replacement value without deduction for depreciation, as determined annually by the Board of Directors of the Association. Such coverage shall afford protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, including flood insurance and such other risks as are customarily covered with respect to buildings similar to the buildings on the land, such as vandalism and malicious mischief.

2. Public liability insurance in such amounts and with such coverages as shall be required by the Board of Directors of the Association, and with a cross-liability endorsement to cover liabilities of the apartment unit owners as a group to an apartment unit owner.

3. Workmen's compensation as required by law.

4. Such other insurance as the Board of Directors of the Association may determine from time to time to be desirable.

C. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense.

D. The Board of Directors of the Association, acting on behalf of the apartment unit owners, is hereby irrevocably appointed agent for each apartment owner to adjust all claims arising under insurance policies purchased by the Association, and to execute and deliver releases upon the payment of claims.

E. All apartment unit owners and mortgagees of the apartment unit owners shall be furnished copies of each insurance policy purchased by the Association, showing the name of the insurance trustee, the name of the insurance company, the policy number, the effective date and the expiration date of the policy, the total amount of the policy and the name and address of the insurance agent issuing the policy. The copy shall also provide that the apartment unit owner and the mortgagee of each apartment unit owner shall be furnished notice of any change in or cancellation of the policy within thirty (30) days prior to the effective date of said change or cancellation.

F. Each apartment unit owner shall have the right to insure his own apartment unit for his own benefit, though his provision will not alter or vary the requirement that the Association purchase insurance on the building and improvements in the condominium. Any apartment unit owner that has made, or does make, permanent improvements within his apartment unit that have become or will become affixed to the realty, and who desires additional specific contingent insurance on such improvements, may request the Association's insurance trustee to include this coverage as a separate item in the standard Improvements and Betterments clause of the Association's policy, the premiums for said additional coverage to be paid in advance by the apartment unit owner so requesting the coverage at his own expense and said premiums shall not be a portion of the common expenses of the Association. The Association's insurance trustee may not unreasonably deny such a request, but it shall not be liable for failure to see that such additional insurance is properly issued.

G. The Association will not purchase or obtain insurance to cover the personal property of an apartment unit owner, nor will the Association purchase or obtain insurance to cover the individual liability of an apartment unit owner for injuries and damages suffered by anyone or anything within the apartment unit if said injuries or damages are not a liability of the Association.

**Section 15. Repair and Replacement of Destroyed Property.**

A. Damage to or destruction of the building and improvements shall be promptly repaired and restored by the Board of Directors of the Association using the proceeds of insurance for that purpose. If there is a deficiency in the proceeds of the insurance policies, the apartment unit owners shall be assessed, as a common expense, the difference between the amount of insurance



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proceeds and the amount necessary to repair, rebuild or replace the damaged building or improvement to its original condition.

B. All repairs or reconstruction shall be made substantially in accordance with the plans and specifications used for the original structures or buildings, which plans are recorded in the Office of the Register of Deeds of Dare County, North Carolina.

C. If the building shall be more than two-thirds (2/3) destroyed by fire or other disaster and the owners of three-fourths (3/4) of the units duly resolve not to proceed with repair or restoration, then and in that event:

1. The property shall be deemed to be owned as a tenancy in common by the unit owners;

2. The undivided interests in the property owned by the unit owners as tenants in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities;

3. Any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the unit owner in the property as provided herein;

4. The property shall be subject to an action for sale 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 all the unit owners in proportion to their respective undivided ownership of the common areas and facilities, after first paying out of the respective shares of unit owners, to the extent sufficient for that purpose, all liens on the unit of each unit owner; and such other encumbrances consistent with deeds of trust against various units and to the respective unit owners as their interests appear.

5. All real property owned by the Association itself shall be transferred by recordable instrument to the individual unit owners in the same proportions as their ownership in the common areas appear.

D. Any proceeds remaining from any insurance policies after damages for which proceeds have been paid for repair or restoration, and such repaid or restoration has been completed, shall be paid to the Association to be applied to common expenses.

E. If damage occurs only to those parts of an apartment unit for which the responsibility of maintenance and repair is that of the apartment unit owner as provided in Section 10, then the apartment unit owner shall be responsible for construction and repair after casualty.

#### Section 16. Compliance and Default.

A. Each apartment unit owner shall be governed by and shall comply with the terms of this Declaration, the By-Laws of the Association and the regulation adopted pursuant thereto, and by such documents and regulations as the same may be amended from time to time. A violation or default shall entitle the Association, or other apartment unit owners, to the relief described in Paragraph D of this Section in addition to the remedies provided by the Unit Ownership Act.

B. An apartment unit owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or by that of any member of his family or his or their guests, tenants, employees, agents or lessees. This provision shall apply even though the maintenance, repair or replacement would otherwise be a common expense to be paid by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of an apartment unit or its appurtenances.

C. The failure of the Association or any apartment unit owner to enforce any covenant, restriction or other provision of this Declaration, by By-Laws of the Association or the regulations adopted thereto, shall not constitute a waiver of the right to do so thereafter.

D. Any unit owner, the manager, Board of Directors of the Association

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or a combination of unit owners may invoke any appropriate civil remedy to enforce the terms of this Declaration or the By-Laws of the Association.

Section 17. Amendments: This Declaration may be amended by the Association in the following manner:

A. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the members of the Association at which a proposed amendment is to be considered.

B. A resolution adopting a proposed amendment may be proposed by either the Board of Directors of the Association or by any member of the Association. Directors and members not present in person or by proxy at any meeting considering the amendment may express their approval in writing, providing, such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be by not less than 75% of the entire membership of the Association.

C. No amendment shall discriminate against any apartment unit owner or against any apartment unit or class or group of apartment units unless the apartment unit owners so affected shall consent. No amendment shall change any apartment unit owner's share in the common elements appurtenant to his unit, nor increase the apartment unit owner's share of the common expenses unless the record owner of the apartment unit and all record owners of liens thereon shall join in the execution of the amendment.

D. A copy of each amendment shall be certified by the President and Secretary of the Association as having been duly adopted and shall be effective when recorded in the Office of the Dare County Register of Deeds.

Section 19. Agent for Service of Process.

A. Starkey Sharp, Esq., whose address is Kellogg, White, Evans, Sharp and Michael, Post Office Box 221, Kitty Hawk, North Carolina 27949, is hereby designated as the agent upon whom service process may be made in any action or proceeding brought against the condominiums.

Section 20. Termination.

A. This condominium may be terminated by all of the apartment unit owners executing an instrument for that purpose to be recorded in the Dare County Registry. Said instrument must also include the consent of all holders of liens on apartment units that his or its lien may be transferred to the percentage of the undivided interest of the apartment unit owner subsequent to termination.

B. When a termination has been effected as herein provided, all the property previously subject to the Unit Ownership Act shall be deemed to be owned by all of the apartment unit owners as tenants in common, including those parcels of land over which an apartment unit is situated. And further, the Association, prior to dissolution, shall convey to all the unit owners, as tenants in common, all real property owned by the Association by a duly executed deed of conveyance. Each tenant's undivided interest shall be that percentage of the undivided interest previously owned by such apartment unit owner in the common elements and facilities.

Section 21. Status of Owners.

A. Upon initial creation of The Oceans Condominium Association, Inc., the owners shall have control of and shall appoint the Board of Directors thereof. At such time as six (6) units are sold in the condominium building, the owners, within fifteen (15) days, shall turn over and deliver control of the Condominium Association Board of Directors to the duly-elected officers of The Oceans Homeowners Association, Inc., as provided in the Articles of Incorporation and the By-Laws.

B. For as long as the owners are the record owners of one or more condominium apartment units which remain unsold, the owners shall be responsible for and pay their prorata portion of the common expenses as determined by the Association.

C. Until the owners have sold all of the apartment units, neither the condominium unit owners, nor the Association, nor the use of the condominium

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property shall interfere with the completion of the contemplated improvements and sale of the condominium units. The owners may make use of the unsold condominium apartment units and common areas as may facilitate completion of the construction thereof and sale, including but not limited to the maintenance of a sales office, model apartment, the showing of the property and displaying of advertising signs.

Section 22. Severability. If any provision of this Condominium Declaration or any of the condominium documents is held to be invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Declaration and the other condominium documents shall not be affected thereby.

IN TESTIMONY WHEREOF, the authorized partners of Coastal Development Group hereunto set their hands and seals this 21st day of July, 1983.

COASTAL DEVELOPMENT GROUP

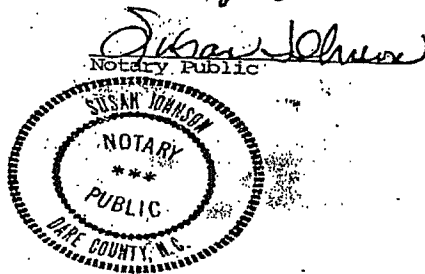
By: Susan Johnson (SEAL)  
General Partner

STATE OF North Carolina  
CITY/COUNTY OF Dare

I, a Notary Public in the State and City/County aforesaid, do hereby certify that Neal A. Barnes, General Partner of Coastal Development Group, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and seal, this the 21st day of July, 1983.

My Commission Expires:

October 2, 1983

NORTH CAROLINA DARE COUNTY

The foregoing Certificate(s) of Dare Co., NC Susan Johnson a Notary Public of

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Alan S. Ware Register of Deeds For Dare County

By Dawn Johnson Deputy/Assistant-Register of Deeds

RECORDED Aug-8-1983

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## Exhibit A

## Property Description

Beginning at an iron pin situated in the corner of the Carolinian Hotel property located in the East edge of U.S. 158 Business; continuing thence along said highway; North 19° 30' West 111 feet a distance of 111 feet to a corner; thence turning and running North 70° 30' East a distance of 473.52 feet, more or less to the highwater mark of the Atlantic Ocean; thence turning right and running in a Southerly direction along the Atlantic Ocean to the Carolinian Hotel property; thence turning and running South 70° 30' West a distance of 474.52 feet, more or less, to an iron pin, the point and place of beginning.

Same being the property conveyed to Grantor herein by deed recorded in Book 329, page 77, Dare County Public Registry.

Reference is made to the survey of the condominium property which is included with and made part of the plans for this condominium recorded with this declaration in the Condominium and Unit ownership plat book.

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Exhibit B

2.1.11 44

# State of North Carolina



ALVIN C. WISE  
SEDS  
Department  
of the  
Secretary of State

To all to whom these presents shall come, Greeting:  
I, Thad Eure, Secretary of State of the State of  
North Carolina, do hereby certify the following and  
hereto attached ( 2 sheets) to be a true copy of  
ARTICLES OF INCORPORATION

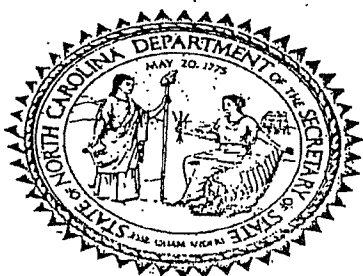
OF

OCEANS HOMEOWNERS ASSOCIATION, INC.

and the probates thereon, the original of which was  
filed in this office on the 29th day of July 1983,  
after having been found to conform to law.

In Witness Whereof, I have hereunto set my hand  
and affixed my official seal.

Done in Office, at Raleigh, this 29th day  
of July in the year of our Lord 1983.



*Thad Eure*  
Secretary of State  
By *[Signature]*  
Deputy Secretary of State

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## Exhibit B

## ARTICLES OF INCORPORATION

OF

OCEANS HOMEOWNERS ASSOCIATION, INC.

The undersigned, being of the age of eighteen years or more, does hereby make and acknowledge these Articles of Incorporation for the purpose of forming a non-profit corporation under and by virtue of the laws of the State of North Carolina.

1. The name of the corporation is Oceans Homeowners Association, Inc.
2. The period of duration of the corporation is perpetual.
3. The purposes of which the corporation is organized are:
  - a. To maintain and administer the condominium properties and facilities of The Oceans Condominiums, located in Nags Head, Nags Head Township, Dare County, North Carolina.
  - b. To administer and enforce the covenants and restrictions and to collect and disburse the assessments and charges of said condominium.
  - c. To conduct such services, duties and functions strictly on a non-profit basis for the mutual benefit of all owners of the condominium units with The Oceans Condominiums.
4. The members of the corporation shall be the record owners of the condominium units within The Oceans Condominiums. The corporation shall have only one class of voting members, the rights of which members shall be designated in the By-Laws of this corporation.
5. The directors of the corporation shall be elected by the members in the manner provided by the By-Laws.
6. The address of the initial registered office of the corporation in the State of North Carolina is Post Office Box 221, Kitty Hawk, North Carolina 27949; and the name of its initial registered agent at such address is Starkey Sharp.
7. The number of directors constituting the initial board of directors shall be three; and the names and addresses of the persons who are to serve as the initial directors are:

NAME

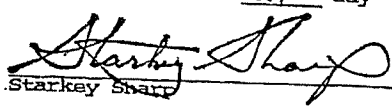
Neal A. Barnes  
J. Baxter Bailey  
I. Roland Specter

ADDRESS

Route 3-11 Fairway Road  
Petersburg, Virginia 23803  
Route 3-11 Fairway Road  
Petersburg, Virginia 23803  
Route 3-11 Fairway Road  
Petersburg, Virginia 23803

8. The name and address of the incorporator is Starkey Sharp, Post Office Box 221, Kitty Hawk, North Carolina 27949.

IN WITNESS WHEREOF, I have hereunto set my hand, this the 27<sup>th</sup> day of July, 1983.

  
Starkey Sharp

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NORTH CAROLINA  
DARE COUNTY

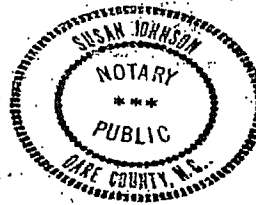
I, Susan Johnson, a Notary Public in and for the  
aforesaid State and County, do hereby certify that Starkey Sharp personally  
appeared before me this day and acknowledged the due execution of the  
foregoing instrument.

WITNESS my hand and notarial seal, this the 27th day of July,  
1983.

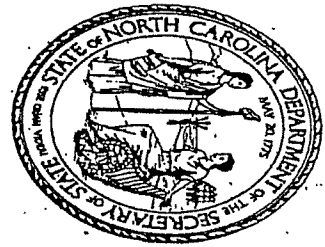
My Commission Expires:

October 2, 1983

Susan Johnson  
Notary Public



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# State of North Carolina

## NOTICE

The issuance of a certificate of title to any domestic corporation or a certificate of authority to any foreign corporation is not valid unless the fee in this office is paid. A certificate cannot be issued until the fee is paid. If the fee is not paid, the certificate will not be a defense to an action for violation of any such title.

Certified Copy  
from  
The Department of The  
Secretary of State  
to be Recorded  
with the  
Register of Deeds  
of County of  
Registered Office

Recorded August 3, 1993  
By OMA 21618  
Register of Deeds, Dare County, N.C.

By long