

St. John, Dickler & Caplan
500 Australian Ave So. ✓
Ste: 600
West Palm Beach, FL
33401

MAR-10-1997 4:10PM 97-085155
ORB 9690 Pg 1749
1

**DECLARATION AND
CERTIFICATE OF AMENDMENT
REGARDING SCHOOL IMPACT FEES**

THIS DECLARATION AND CERTIFICATE OF AMENDMENT Regarding School Impact Fees (hereinafter referred to as "Declaration") is executed this 20th day of FEBRUARY, 1997 by The Moorings at Aberdeen Homeowners Association, Inc., its corporate successors and assigns (hereinafter referred to as "Owner"), and Palm Beach County, a political subdivision of the State of Florida (hereinafter referred to as "County").

IT HEREBY IS CERTIFIED that the Amendment attached as Exhibit "A" was duly adopted as an Amendment to the Declaration of Covenants and Restrictions for The Moorings at Aberdeen ("Moorings Declaration") which is recorded in Official Records Book 4552, at Page 1382 of the Public Records of Palm Beach County, Florida.

RECITALS

WHEREAS, County is empowered and authorized to calculate and assess the Fair Share Contribution for school impact fees pursuant to Article 10 of the Land Development Code and the laws of the State of Florida; and,

WHEREAS, Owner is the homeowners association governing the planned community known as The Moorings at Aberdeen ("The Moorings"); and

WHEREAS, The Moorings is a community which falls under the exemption to the Fair Housing Amendments Act of 1988 (hereinafter referred to as the "Fair Housing Act"), thereby allowing for the prohibition of residents of the community nineteen years of age or younger, except for a period of time not to exceed a total of forty-five days per calendar year; and

WHEREAS, Article 10.1.F.6.C of the Land Development Code empowers the Impact Fee Coordinator to require a covenant running with the land to be executed and recorded on the Owner's land to ensure compliance with the Land Development Code;

NOW, THEREFORE, in consideration of the County's grant of adjustment of the applicable impact fee amount and the promises made by the parties hereto and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties do covenant and agree as follows:

1. Recitals - The recitals contained above are true and correct and incorporated herein by reference.
2. Impact Fee Adjustment - County agrees to grant an exemption from the school impact fees provided The Moorings continues to fall under the exemption to the Fair Housing Act and continues to exclude from its community any child nineteen years of age or younger except for a period not to exceed a total of forty-five days per calendar year.
3. Purpose of this Declaration - The general purpose of this Declaration is to ensure that Owner will continue to prohibit children nineteen years of age or younger from residing in the community except for a period not to exceed a total of forty-five days per calendar year and the community continues to fall under the exemption of the Fair Housing Act.
4. Restrictions - The Owner hereby covenants and agrees and acknowledges that in the event Owner shall allow children nineteen years of age or younger to reside in The Moorings for a period in excess of a total of sixty days per calendar year, the impact fees exempted herein shall immediately become due and payable.
5. Effectiveness of Declaration - Within fourteen (14) days after the parties have approved and executed this Declaration, the Owner shall record this Amendment to The Moorings' Declaration with the Clerk of the Circuit Court, Palm Beach County, Florida. The terms of this Declaration shall be effective on the date of recording.
6. Enforcement - It is expressly understood and agreed that the terms of this Declaration shall be binding upon and shall inure to all successors in interest to the parties to the Declaration, and shall run with the land. The parties to this Declaration may institute any proceedings at law or equity against any person violating or threatening to violate the same or against any person allowing a violation to take place. Failure by the Owner, or the County, or other such party to continue to object to the violation or to enforce any term of this Declaration shall in no event be deemed a waiver of the right to do so thereafter as to the same violation or as to another occurring prior to or subsequent thereto. All expenses incurred in enforcing the provisions of this Declaration, including costs of suit and reasonable attorneys' fees, shall be payable to the prevailing party.
7. Right to Modify - The Owner and County hereby expressly reserve the right to annul, waive, amend, rescind or modify any of the restrictions, conditions, covenants, agreements or provisions contained herein as to all or any part of The Moorings by written agreement by Owner (or their heirs, successors and assigns) and County. All instruments executed for the purposes of annulling, waiving, amending, rescinding, or modifying any of the covenants, agreements, provisions, and restrictions of this instrument shall be recorded in the Public Records of Palm Beach County, Florida. No such changes or amendments of any kind shall be made except as herein provided. No party shall have the right to unilaterally make any such change or agreement.
8. Entire Agreement - This instrument represents the entire agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this instrument may be added to, modified, superseded or otherwise altered except by written agreement executed by the parties hereto.

IN WITNESS WHEREOF, The Owner has executed this Declaration the day and year first above written.

WITNESSED AND ATTESTED TO BY:

EXECUTED BY:

1. Sign Cynthia K. Fried
Print Cynthia K. Fried
Secretary

Sign Ellis Levine
Print ELLIS LEVINE
President

2. Sign Philip Silverstein
Print EVERETT SILVERSTEIN

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME personally appeared Ellis Levine, President of The Moorings Homeowners Association, Inc., who is personally known to me or who has produced (N/A) as identification and who did take an oath, to be the individual who executed the foregoing instrument and acknowledged to and before me that he executed such instrument as President of the Association with due and regular corporate authority, and that said instrument is the free act and deed of the Association.

WITNESS my hand and official seal this 20 day of February, A.D. 1997.

(SEAL) NOTARY PUBLIC
Rosa Patty Joo-Michaels
Notary Public, State of Florida
Commission No. CC 51475
My Commission Exp. 04/30/2000
1-800-3-NOTARY - Fla. Notary Service & Broking Co.
State of Florida at Large.
My Commission Expires: 4/30/2000

The terms and conditions of the foregoing Declaration Regarding School Impact Fees, to the extent the same are binding on Palm Beach County, are hereby accepted by the undersigned on behalf of Palm Beach County as its duly authorized representative this 4 day of March, 1997.

WITNESSES:

PALM BEACH COUNTY, FLORIDA

Dorothy Finamore
DOROTHY FINAMORE
Typed or Printed Name
Keith W. Hurbs
Keith W. Hurbs
Typed or Printed Name

By: William M. Swoope
Impact Fee Coordinator
William M. Swoope
Typed or Printed Name

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

[Signature]
County Attorney

AMENDMENT TO
THE DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
THE MOORINGS AT ABERDEEN

The Declaration of Covenants and Restrictions for The Moorings at Aberdeen ("Declaration") is amended as follows (words underlined are added and words ~~struck through~~ are deleted):

Item 1. Article 9.1.20 of the Declaration shall be amended to read:

The purpose of this Article is to authorize this Homeowners Association to provide housing primarily intended and operated for occupancy by at least one person 55 years of age or older per unit as required by the Fair Housing Amendments Act of 1988.

Notwithstanding anything stated to the contrary in this Declaration, Articles of Incorporation, Bylaws, and Rules and Regulations, following the sale, lease, gift, devise or other transfer of a unit, the unit shall not be occupied unless at least one occupant of the unit is 55 years of age or older; and the Association Board of Directors shall have the authority to make improvements to the common elements which meet the physical and social needs of older persons and the requirements of the Fair Housing Act of 1988.

Notwithstanding anything stated to the contrary in this Article, during any period of time in which more than 80% of the total units are occupied by one or more individuals 55 years of age or older, or, in the alternative, during any period of time in which more than 80% of the units newly occupied after September 13, 1988, are occupied by one or more individuals 55 years or older, an owner who becomes an owner by inheritance (i.e., a child over 19 ~~16~~ of an owner, but under 55), or when a unit owner dies and the owner's surviving spouse becomes the owner and sole occupant under age 55, said owners may occupy their units, even though they are under the age of 55; provided, however, that this provision does not allow for occupancy under age 19 ~~16~~ as specified in Article 9.1.3 of this Declaration.

Item 2. Article 9.1.3 of the Declaration shall be amended to read:

No children who have not yet attained the age of nineteen (19) ~~sixteen (16)~~ years shall be permitted within any Lot, except that children under such age may be permitted to visit and reside temporarily therein, provided that such temporary residence shall not exceed forty-five (45) days in any one calendar year, or forty-five (45) days in any consecutive twelve (12) month period, whichever may provide the least permissible residency.

- END -

- EXHIBIT A -