

**DECLARATION OF GENERAL COVENANTS AND
RESTRICTIONS APPLICABLE TO ONO ISLAND SUBDIVISION,
BALDWIN COUNTY, ALABAMA.**

THIS DECLARATION made this 10th day of September, 1970, by Ono Development Company, Inc., hereinafter called Developer,

WITNESSETH:

WHEREAS, Developer is the owner of the real property described in Article II of this declaration and desires to create thereon a community with permanent parks, playgrounds, open spaces, roads, walks, canals, basins, beaches and other common areas and common facilities for the benefit of said community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community, and for the maintenance of said parks, playgrounds, open spaces, roads, walks, canals, basins, beaches and other common areas and common facilities; and to this end, desires to subject the real property described in Article II, together with such additions as may hereafter be made thereto (as provided in Article II), to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer has deemed it desirable for the efficient preservation of the values and amenities in said community to create a nonprofit corporation, to which shall be delegated and assigned the powers of maintaining and administering the community properties and facilities, and administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated under the laws of the State of Alabama, as a nonprofit corporation, PROPERTY OWNERS ASSOCIATION OF ONO ISLAND, INC., for the purpose of exercising the functions aforesaid;

NOW THEREFORE, the Developer declares that the real property described in Article II, and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "General Covenants and Restrictions") hereinafter set forth, which said "General Covenants and Restrictions" shall be in addition to "Local Covenants and Restrictions" applicable to limited areas within the boundaries of the properties covered by the General Covenants and Restrictions.

**ARTICLE I
DEFINITIONS**

The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Association," shall mean and refer to Property Owners Association of Ono Island, Inc.
- (b) "The Properties" shall mean and refer to all those parts of Ono Island located in Baldwin County, Alabama, of which a plat of subdivision, duly recorded in Baldwin County, Alabama, has been executed by Ono Development Company, Inc., as owner, subdivider, or developer, or to which Ono Development Company, Inc. has given its approval, in writing, upon the face of any such recorded plat; and such additions thereto as may hereinafter be brought within the jurisdiction of the Association by annexation as provided in Article II hereof. Lands not included within the perimeter boundaries of a recorded plat executed or approved by Ono Development Company, Inc. as aforesaid shall not be included within the meaning of "The Properties" as used herein unless and until the same are annexed.
- (c) "Common Properties" shall mean and refer to those areas of land designated by the Developer on any recorded plat of The Properties as "Common Properties" or "Common Properties (Limited Use)" and also any properties conveyed to the Association as or for "Common Properties" or "Common Properties (Limited Use)"; and shall include any parks, playgrounds, commons, streets, footways, buildings, structures, recreational facilities and any other real and personal property owned and maintained by the Property Owners Association of Ono Island, Inc. for the common benefit and enjoyment of the residents of The Properties.

(d) "Common Properties (Limited Use)" shall refer to those common properties to which use or enjoyment is limited or restricted to residents of a given Unit, Block or Area; or from which residents owning interests of a given type, or in a given location on the properties are excluded, or their use and enjoyment is in some way limited. Common properties (Limited Use) is referred to in Article IV, Section 2 of these covenants. The designation "Common Properties" when used in these covenants is intended to and shall include both "Common Properties" and "Common Properties (Limited Use)."

(e) "Lot" shall mean and refer to any parcel of land shown upon any recorded subdivision map of The Properties with the exception of Common Properties as heretofore defined.

(f) "Living Unit" shall mean and refer to any portion of a Multi Family Structure, as hereinafter defined, situated upon a portion of The Properties and intended for use and occupancy as a residence by a single family.

(g) "Multifamily Structure" shall mean and refer to any building containing two or more living units under one roof, except when each such living unit is situated upon its own individual lot.

(h) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a vested interest in the fee simple title to any Lot or Living Unit situated upon the Properties, and if said title is split between estates for life or years, and remainder, then the owner or owners of the estate having present rights to possession shall be considered the "Owner." Notwithstanding any applicable theory of the mortgage, the word "Owner" shall not mean or refer to any mortgagee unless and until such mortgagee has acquired title, whether subject to redemption or not, pursuant to foreclosure or any proceeding in lieu thereof. After any mortgage or any lien holder or purchaser at foreclosure sale acquires title by foreclosure or proceedings in lieu of foreclosure he shall be and become the Owner within the meaning of these covenants, and the debtor or debtors shall no longer be an Owner regardless of whether or not there is outstanding a right of redemption.

(i) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section 1, hereof.

(j) "General Covenants and Restrictions" shall mean and refer to these covenants and restrictions, which shall be applicable to the real property described in Article II, and such additions thereto as may hereinafter be made pursuant to Article II hereof.

(k) "Local Covenants and Restrictions" shall mean and refer to those covenants and restrictions which are applicable to an area which lies wholly within the boundaries of the area covered by the General Covenants and Restrictions, but which is limited in size to boundaries potentially smaller than those covered by the General Covenants and Restrictions. "Local Covenants and Restrictions" shall be additional covenants relating to a limited area within the area covered by the General Covenants and Restrictions and shall apply to such limited area only.

ARTICLE II

**PROPERTY SUBJECT TO THIS DECLARATION AND
ADDITIONS THERETO**

Section 1. Existing property. The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration of General Covenants and Restrictions is located on Ono Island in Baldwin County, Alabama, and is more particularly described as follows:

Ono Island Subdivision, Unit One, as per plat thereof recorded in Map book 7, page 52, of the records in the Office of the Judge of Probate of Baldwin County, Alabama.

All of which real property shall hereinafter be referred to as "Existing Property."

Section 2. Additions to Existing property. Additional land may become subject to this Declaration of General Covenants and Restrictions in any of the following manners:

A. Additions by Developer, its Successors or Assigns. The developer, its successors or assigns, shall have the right to bring within the scheme of this Declaration of General Covenants and Restrictions additional properties in future stages of development of Ono Island. Such additions shall be made in the following manner:

- (1) A plat or map of such property shall be prepared,

M/C 22 P. 359

See Restrictions for Unit One, All Min. 27 pages 121
See Partial Release See R.P. 348 Page 36 (Easement)

showing the "Common Properties," "Common Properties (Limited Use)," properties dedicated to public use, if any; property reserved by the Developer, and proposed land uses, which said land uses may or may not be the same or similar to the land uses of the Existing Property; (it being understood that the overall development scheme for Ono Island as now envisioned by the Developer embraces Commercial uses, High Density uses, and other uses not included in the uses permitted upon the lands presently comprising the Existing Property.

(2) Any such plat or map shall be executed by, or bear upon its face the written approval of, Ono Development Company, Inc.

(3) Such plat or map shall have a statement upon its face that it is an addition to the Existing Properties, and that the owners of Lots or Living Units will be automatically members of Property Owners Association of Ono Island, Inc. and subject to assessment for their just share of Association expenses.

(4) The additions authorized under this and the succeeding subsection shall be made by filing of record a Declaration of Local Covenants and Restrictions with respect to the additional property, which shall adopt by reference and thereby extend the scheme of this Declaration of General Covenants and Restrictions to such property, and which shall set forth such local covenants and restrictions as are applicable to the additional properties. Any such Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect any different character of land use, if any, of the added properties, which is not inconsistent with the scheme of this Declaration. In no event, however, shall any such Declaration revoke, modify, or add to the covenants established by this Declaration of General Covenants and Restrictions and/or the Declaration of Local Covenants and Restrictions insofar as they affect the lands presently comprising the Existing Property.

B. **Other Additions.** Upon approval in writing of the Developer and of the Association pursuant to a vote of its members as provided in its Articles of Incorporation, any owner of other property who desires to add it to the scheme of this Declaration, and to subject it to the jurisdiction of the Association, may do so by filing of record a Declaration of Local Covenants and Restrictions, as described in subsection A. (4) this section.

C. **Mergers.** Upon any merger or consolidation of the Association with another association as provided in its Articles of Incorporation, the properties, rights and obligations of Property Owners Association of Ono Island, Inc. may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as the surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions, both general and local, applicable to the Existing Property, together with the covenants and restrictions, both general and local, established upon any other properties, as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants, either general or local, established within the Existing Property except as hereinafter provided.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. **Membership.** Every person or entity who is a record owner of a vested interest in the fee simple title to any Lot or Living Unit as herein defined, which is subject by covenants of record to assessment by this Association, shall be a member of this Association. Provided, however, that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a member unless and until such security holder or mortgagee has acquired title pursuant to foreclosure or any proceedings in lieu thereof, and provided further that any owner of any property that is exempted from assessment by covenants of record shall not be a member unless such person or entity owns other land or living unit qualifying him for membership. The purchaser at foreclosure or proceedings in lieu of foreclosure shall be a member and the debtor's membership shall cease, regardless of whether there is an outstanding right of redemption or not.

Section 2. **Voting Rights.** The association shall have two classes of voting memberships:

CLASS A: All owners, as defined in Article I, (h) hereof, with the exception of the Developer, shall be Class A members. Class A members shall be entitled to one vote for each lot or living unit in which they hold the interest required for membership by Article III, Section 1 hereof. When more than one person holds such interest or interests in any Lot or Living Unit, all such persons shall be members, and the one vote for such Lot or Living Unit shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any such lot or living unit.

CLASS B: The Developer shall be the sole Class B member and shall be entitled to three votes for each lot and three votes for every Living Unit in any Multifamily Structure in which it holds the interest required for membership under Article III, Section 1 hereof. At such time as any such Lot or Living Unit is sold, the Class B membership attributable to such Lot or Living Unit shall cease, and the new owner or owners shall become Class A members.

For purposes of determining the votes allowed under this section to either class of members, when Living Units are counted, the Lot or Lots upon which said Living Units are situated shall not be counted.

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON PROPERTY AND PRIVATE ROADS

Section 1. Member's Easements of Enjoyment.

(a) "Private Roads." All roads, bridges, streets, alleyways, easements and other areas which are usually dedicated to the public by the recording of a plat of subdivision, and which are hereinafter referred to as "private roads" are expressly reserved by Ono Development Company, Inc. and are NOT DEDICATED, NOT DONATED and NOT GRANTED to the public.

Each owner of a lot or living unit in The Properties and each member is granted, subject to Article IV, Section III hereof, a right and easement of use and enjoyment in and to said "private roads" shown upon the plat of subdivision, which shall be appurtenant to and shall pass with the title to every lot and living unit.

The right and easement of use and enjoyment granted in said "private roads" may be exercised by any of said owners and members and their servants, agents, employees and guests. Provided, however, that no owner or member shall have any right to use any of the "private roads" for the purpose of obtaining access to any lands on Ono Island other than the lands developed by Ono Development Company, Inc., nor shall any owner or member have any right to grant or extend to others any right of access to any lands not developed, owned, or controlled by Ono Development Company, Inc.; all rights to do so being specifically reserved by Ono Development Company, Inc. Nothing herein contained shall constitute a public dedication of such "private roads," or prevent Ono Development Company, Inc. from granting similar rights from time to time to others, or from conveying such "private roads" to Property Owners Association of Ono Island, Inc. or other persons for maintenance, subject to such reservations, limitations or conditions as it may impose.

(b) "Common Properties." Subject to Section 3 of this article, every member shall have a right and easement of enjoyment in and to the Common Properties, subject to such restrictions as may be placed upon certain Common Properties restricting or limiting its use to residents of a certain Unit, Block, area, or type of properties as set out in Section 2 of this Article. Such easement shall be appurtenant to and shall pass with the title to every Lot and Living Unit.

Section 2. **Title to Common Properties, Private Roads, and Implied Easements.** The developer shall designate upon any plat of subdivision placed of record by it the private roads and private easements, and also any properties which may be Common Properties. If the use of such Common Properties is limited or restricted to residents of any given unit, block, area or type of ownership, the same shall be designated upon such plat or map as "Common Properties (Limited Use)." The legal title to any area so designated as Private Roads, Common Properties and Common Properties (Limited Use), shall be reserved by the Developer until such time as, in the discretion of the Developer, the Association is able to maintain the same, but, notwithstanding any provision herein, the Developer hereby covenants for itself, its successors and assigns, that it shall convey any Private Roads, Common Properties and Common Properties (Limited Use) to the Association not later than five (5) years after the date of recording of any plat or map showing any such Private Roads, Common Properties and Common Properties (Limited Use). There shall be no right to use any recreation park, playground,

street, easement, footway, building, structure, or other recreational facility or personal property incident thereto unless the same is designated upon a recorded plat or map as "Private Roads," "Common Properties" or "Common Properties (Limited Use)," or unless a written agreement executed by the Developer is recorded so designating such property, or unless the property is conveyed to the Association for such use. No part of the property is intended to be dedicated to any public agency, authority or utility for any public use, except as herein provided, and no dedication to the public, or right of use by the public shall be implied from these covenants, or from the recorded plat of The Properties, or otherwise.

Section 3. Extent of Member's Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Developer and of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties. In the event of default upon any such mortgage, the lender shall have a right, after taking possession of such properties, to charge admission and other fees as a condition to continued enjoyment by the members and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied, whereupon the possession of such properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosure; and

(c) The right of the Association as provided in its Articles and By-Laws to suspend the enjoyment rights of any member for any period during which any assessment due by said member remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and

(d) The right of the Association to charge reasonable admission and other fees for the use of the Common Properties; and

(e) The right of the Developer and/or the right of the Association, with the written approval of Ono Development Company, Inc., to dedicate or transfer all or any part of the Private Roads, Private Easements and Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be stipulated in any such dedication or transfer. No such dedication or transfer, if made by the Association, shall be effective unless an instrument signed by Members entitled to cast $\frac{2}{3}$ of the votes of each class of membership has been recorded agreeing to such dedication or transfer, and unless written notice of the proposed action to be taken is sent to every Member at least 30 days in advance of any meeting at which said members shall vote upon such action.

(f) Neither the Association nor any member, nor any person, whether an owner or otherwise, except Ono Development Company, Inc. shall have any right to use or grant to others the right to use any road, bridge, walk, common properties or any other part of the properties as access to any lands on Ono Island not subdivided, owned or developed by Ono Development Company Inc., regardless of whether such other land is owned by the Association or a member or other person having a right to use such roads, bridges, walks, and commons, except only as provided in Section (e) above. The right to extend the use of the roads, bridges, walks or commons to any lands not developed by Ono Development Company, Inc., is exclusively reserved by Ono Development Company, Inc.

Section 4. Reservations by Ono Development Company, Inc. Ono Development Company, Inc. reserves unto itself, its successors and assigns, a right of way easement for ingress and egress, and easements for utilities, drainage, maintenance, repairs and other related uses, over, along, across and under all roads and bridges, shown on any plat or map of subdivision of The Properties, and plats of additions thereto, for all purposes relating in any manner to the subdividing, developing, or aiding in the subdivision or development of the balance of Ono Island or any part or parts thereof by Ono Development Company, Inc. or others. Ono Development Company, Inc. reserves unto itself, its successors and assigns the exclusive right to grant easements and rights of way of ingress and egress and for drainage, utilities, maintenance, and repair, along, over, across and under the roads, easements, and bridges shown on the plat or map of subdivision of The Properties and plats of additions thereto, to any person, firm, or corporation, for use as ingress and egress or for drainage, utilities, maintenance and repairs. Ono Development Company,

Inc. reserves the right to grant such rights of use and enjoyment and place such conditions thereon and/or make such charges therefor as in its sole discretion it may decide. The rights reserved by Ono Development Company, Inc. in and to said roads, bridges and easements shall include, but not be limited to, the right to license the use of the same; the right to grant easements in and to the same, which may run with the land of the grantee; the right to the entire proceeds of any award made in any Eminent Domain proceeding by which any right, title, or interest in and to any road, bridge, easement or any part or all of the Common Properties or Common Properties (Limited Use), is condemned; and the right to dedicate, or approve any dedication by the Association, of any road, bridge or easement, or any part thereof, to any public agency, authority or utility for such purposes and subject to such conditions as it may fix and determine. All of the above rights and interests reserved by Ono Development Company, Inc. may be exercised by Ono Development Company, Inc. without the consent or concurrence of the Association or any member thereof or any owner of property or property rights in The Properties, or any additions thereto.

ARTICLE V

COVENANTS FOR MAINTENANCE ASSESSMENT

Section 1. Creation of the Lien and Personal Obligations of Assessments. The Developer, for each Lot and Living Unit owned by it within the properties, hereby covenants; and each owner of any Lot or Living Unit by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is hereby deemed to covenant and agree to pay to the Association; (1) annual assessments or charges; and (2) special assessments for capital improvements, such assessment to be fixed, established and collected from time to time as hereinafter provided. The annual and any special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of any person who was an owner of such property, as hereinabove defined, at the time when the assessment fell due, or in the event there is more than one owner of any lot or living unit, each and every such owner shall be personally liable for the entire assessment due from such lot or living unit, said obligation being several as well as joint.

Section 2. Purpose of Assessment. The assessments levied by the Association shall be used for the purposes of promoting the recreation, health, safety, general welfare and convenience of the owners of the properties and Members of the Association, and in particular for the improvement and maintenance of properties, services and facilities devoted to these purposes and related to the use and enjoyment of The Properties and of the homes situated upon The Properties; including, but not limited to, the payment of taxes, and insurance on the Common Properties and Common Properties (Limited Use), and for repair, replacement and additions to any improvements thereon, and for the cost of labor, equipment, materials, management, and supervision thereof.

Section 3. Basis and Maximum of Annual Assessments. Until the year beginning January 1st, 1975, the annual assessment shall be \$50.00 per lot or living unit. From and after January 1st, 1975, the annual assessment may be increased by vote of the members, as hereinafter provided, for the next succeeding three years, and at the end of each successive period of three years, for the following three year period. The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the annual assessment for any year at a lesser amount.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized by Section 3 hereof, the Association may levy in any assessment year, a special assessment, applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two thirds ($\frac{2}{3}$) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance, which notice shall set forth the purpose of the meeting.

Section 5. Change in Basis and Maximum of Annual Assessments. Subject to the limitations of Section 3 hereof,

and for the period therein specified, the Association may change the maximum and basis of the assessment fixed by Section 3 hereof prospectively for any such period provided that such change shall have the assent of two thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance, which notice shall set forth the purpose of the meeting, provided further that the limitations of Section 3 hereof shall not apply to any change in the maximum and basis of the assessment undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation and under Article II, Section 2 hereof.

Section 6. Quorum for any Action Authorized under Section 4 and 5. The quorum required for any action authorized by Sections 4 and 5 hereof shall be as follows:

At any initial meeting called for the purposes provided in Sections 4 and 5 hereof, the presence at the meeting of members or of proxies entitled to cast sixty (60%) per cent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any such meeting, one or more subsequent meetings may be called, subject to ten days written notice of each such subsequent meeting; and the required quorum at any such subsequent meeting shall be one half of the required quorum at the preceding meeting; provided that no such subsequent meeting shall be held more than sixty days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments. Due Date. The first annual assessment shall commence and be due and payable on a date fixed by the Board of Directors and shall be for a period ending on the last day of February, 1971. The amount thereof shall be prorated depending upon the portion of a twelve month period affected by said assessment. The assessment for any year after the first year shall be for a fiscal year commencing March 1, and terminating on the last day of February of the following year. Each such annual assessment after the first year shall become due and payable on the first day of March of each such fiscal year. The assessment year and due date may be changed from time to time by the Board of Directors.

The amount of the first assessment levied against any property which is hereafter added to the Properties now subject to assessment at a time other than the beginning of any assessment period shall also be prorated depending upon the portion of a twelve month period affected by said assessment.

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 8. Duties of the Board of Directors With Regard to Assessments. Any change made by the Board of Directors of the Association in the date of commencement and the amount of the assessment against each lot or living unit for any assessment period shall be made at least thirty (30) days in advance of the due date for said assessment. The Association shall prepare a roster of the Properties and assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any owner. Written notice of any assessment shall be sent to every owner subject thereto, at least 30 days in advance of the due date.

The association shall, upon demand at any time, furnish to any owner liable for any assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Non Payment of Assessment, The Personal Obligation of the Owner. The Lien: If the assessments are not paid on the date due (being the date specified in Section 7 hereof), then such assessments shall thereupon become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, become a continuing lien on the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then owner to pay such assessment, however, shall remain his personal obligation for the statutory period, and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the date when due, the assessment shall bear interest from the date of delinquency at the rate of eight per cent per annum, and the Association may bring an action at law against any owner personally obligated to pay the same, or the Association may foreclose the lien against the property; either or both, as it may determine, and there shall be added

to the amount of such assessment the costs of preparing and filing any complaint in any such action; and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided, and a reasonable attorney's fee, to be fixed by the court, together with the costs of the action. If there be more than one owner personally liable for any such assessment, this liability shall be several as well as joint, and the Association, in its sole discretion, may elect to proceed against one or more of these owners for recovery of the entire sum due.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the Properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such mortgagee or other purchaser at foreclosure, or any grantee in any deed in lieu of foreclosure, or any successor in title, from liability for any assessments thereafter becoming due, nor relieve such property from the lien of any such subsequent assessment.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein: (a) All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authorities and devoted to public use; (b) all common properties as defined in Article I, (c) and (d) hereof; (c) all properties exempted from taxation by the laws of the State of Alabama upon the terms and to the extent of such legal exemption; (d) all private roads, bridges, streets, alleyways and easements.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges, or liens.

ARTICLE VI

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as part of the original construction of the homes upon the Properties, and placed on the dividing line between any lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to their use, without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

Section 6. Arbitration. In the event any dispute arises concerning a party wall, or under any provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision of a majority of all the arbitrators shall be final and conclusive of any questions involved.

ARTICLE VII

ARCHITECTURAL CONTROL COMMITTEE

Section 1. No building, fence, wall, pier, driveway or other structure of any nature shall be commenced, erected, or maintained upon the Properties or upon the waters adjacent thereto, nor shall any exterior alterations or additions

be made to any existing building or structures upon any of The Properties or in, on, or over the water adjacent thereto, until the building plans and specifications and plot and profile plans showing the elevation and location thereof, have been approved as to conformity and harmony of external and structural design with existing structures in the subdivision; quality of workmanship and material; and as to location of any building upon any lot with respect to topography, finish grade elevation and minimum setback; and until a building permit has been issued authorizing said construction. Said approval and building permit shall be issued by an Architectural Control Committee designated by Property Owners Association of Ono Island, Inc., or by a representative appointed by a majority of said committee. Lot owners submitting proposed plans for approval hereunder shall pay no fees or costs for said services of the Architectural Control Committee. All action of said committee shall be by majority vote, and all action of any representative appointed by the committee shall be subject to review and change by the committee. Two members of the committee shall constitute a quorum, and any members of the committee may vote on any questions by proxy.

Two complete copies of the plans required by these covenants shall be submitted in writing to the committee at the office of the Property Owners Association of Ono Island, Inc. or such other place as the committee may from time to time designate; and a dated receipt therefor shall be thereupon issued to said Lot Owner of his agent. The committee's approval or disapproval, as required in these covenants shall be in writing, but in the event the committee, or its designated representative fails to mail a letter signifying approval or disapproval of such plans within thirty (30) days after the date stated upon the receipt of said plans, approval will not be required, and the related covenants shall be deemed to have been fully complied with. Any notice of disapproval shall be sent by Registered Letter to the address furnished said committee by said owner. Said notice shall set forth any elements which are disapproved and the reason therefor, but such notice need not contain any suggestions as to the methods of curing the matters and things disapproved. In exercising its jurisdiction as herein provided, the committee shall particularly consider the exterior materials and finishes planned to be used on any proposed residence or other structure, and shall have authority to disapprove any such construction upon purely aesthetic grounds alone. The committee shall act on all matters within its jurisdiction, including any matters hereinafter set out, within its sole discretion, and its judgment upon all such matters shall be final.

Section 2. The said Architectural Control Committee shall have the authority to periodically inspect the exterior of any dwelling unit or outbuilding, and also any pier, dock, retaining wall, sea wall, or similar structure, situated at any location upon The Properties or the waters adjacent thereto, and if the same are determined by said committee to be unsafe, in need of repair, or in such condition that the adjoining property may be adversely affected thereby, then said committee may cause the owner of said property to correct any such condition, and/or said committee shall have authority to enter upon said property and correct the same; and for the purposes hereof an easement in, on, over, and across all lots in this subdivision is hereby reserved in favor of said committee, its agents or employees; and no such entry nor any action taken pursuant to this covenant shall be deemed a trespass.

Section 3. The Architectural Control Committee may employ and pay for the service of architects or other persons within its discretion for the examination of building plans, grading plans or any other plans submitted hereunder; and for such supervision of construction and inspection as may be required to insure compliance herewith.

Section 4. A record of all members of said committee shall be on file in the offices of Property Owners Association of Ono Island, Inc., and said membership information shall be available at all times to all interested parties. In the event of death or resignation of any member, the remaining members shall have full authority to conduct all authorized action of the committee. Property Owners Association of Ono Island, Inc., may, with or without cause, and at any time, and solely within its discretion, remove any member of this committee, and replace any member with a new member, or increase or decrease the membership of said committee.

ARTICLE VIII

DURATION OF RESTRICTIONS

These covenants and restrictions are to run with the land

and shall be binding upon the undersigned and all parties and persons claiming under it until January 1st, 2000, at which time said covenants and restrictions shall automatically be extended for successive periods of ten (10) years, unless it is agreed to change said covenants in whole or in part, by vote of a majority of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance, which notice shall set forth the purpose of the meeting. Provided, however, the restrictions affecting waterfront lots may not be changed or amended unless, in addition to all other requirements, such change has the affirmative vote of a majority of the then owners of waterfront lots in the block of the subdivision to be affected by such change.

ARTICLE IX

SUCCESSORS AND ASSIGNS

Any and all provisions hereof referring to either Ono Development Company, Inc., Property Owners Association of Ono Island, Inc., or to the Architectural Control Committee of said Property Owners Association of Ono Island, Inc. shall be deemed to also refer to and be enforceable by and binding upon the successors and/or assigns of any legal or equitable interest of said Ono Development Company, Inc., Property Owners Association of Ono Island, Inc., and/or said Architectural Control Committee.

ARTICLE X

REMEDIES FOR VIOLATIONS

In the event of a violation or breach of any of these covenants and/or restrictions (other than those covered under Article V hereof), or the violation or breach of any covenants and restrictions contained in any Declaration of Local Covenants and Restrictions, by any person or concern claiming by, through or under Ono Development Company, Inc., or claiming by virtue of any judicial proceedings, then Ono Development Company, Inc., or Property Owners Association of Ono Island, Inc., or any lot, living unit, or tract owner or owners, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance with the terms hereof, and to prevent the violation or breach of any of such covenants and/or restrictions, and to obtain a judgment for the costs and expenses incurred in connection therewith. In addition to the foregoing, Property Owners Association of Ono Island, Inc., its successors or assigns, shall have the right, wherever there shall have been built on any lot or tract any structure which is in violation of any Declaration of Covenants and Restrictions, either General or Local, to enter upon the property where such violation exists and summarily abate or remove the same at the expense of the owner, and such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, restriction, reservation or condition contained in this Declaration of Restrictions or in any Declaration of Local Covenants and Restrictions, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach, or as to a breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement.

ARTICLE XI

AMENDMENTS AND VARIANCES OF LOCAL COVENANTS AND RESTRICTIONS

Any or all of the covenants and/or restrictions contained in any Declaration of Local Covenants and Restrictions may be annulled, amended or modified at any time by the recommendation of two thirds (2/3rds) of the directors of Property Owners Association of Ono Island, Inc., which recommendation must be ratified by a majority of the owners of lots or living units in the block or unit of the subdivision in which such change is to be made. The owners must have had thirty days written notice of the purpose of the meeting, called to ratify such changes. The person or persons requesting such amendment shall bear all expenses of the called meeting. No amendment shall place an additional restriction on lots or living units in said subdivision, nor change the use restrictions on any lot or living unit, unless the owner of such lot or living unit or plot gives his consent to or ratification of the amendment in writing.

The Architectural Control Committee may, within its sole discretion, grant to the owner of any lot, living unit or property, variances from the restrictions, covenants and conditions set forth in the Declarations of General Covenants and Restrictions and/or in any Declaration of Local Covenants

and Restrictions that may be applicable to such lot, living unit, or property, when in the opinion of said Architectural Control Committee, the literal enforcement of such restrictions, covenants and conditions would work an undue hardship upon such owner, and when in its discretion such variance will not unduly or unreasonably affect or inconvenience the owners of adjacent property.

ARTICLE XII
SEVERABILITY

Invalidation, variance from, or removal of any of these covenants by judgment, decree, or Court Order, or amendment by Ono Development Company, Inc., Property Owners Association of Ono Island, Inc., or the Architectural Control Committee, or their successors or assigns, shall in no wise affect any of the other provisions hereof which shall remain in full force and effect.

IN WITNESS WHEREOF, ONO DEVELOPMENT COMPANY, INC. has caused these presents to be executed by its officers, all heretofore duly authorized, on this the 10th day of September, 1970.

ONO DEVELOPMENT COMPANY, INC.
BY: [Signature] (SEAL)
PRESIDENT
ATTEST: [Signature]
BY: [Signature]
SECRETARY

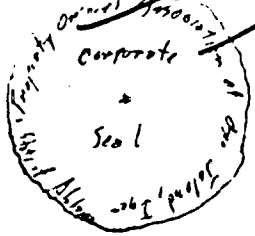
ACCEPTANCE AID CONSENT

Property Owners Association of Ono Island, Inc. agrees to all the terms and conditions of the above and foregoing Declaration of General Covenants and Restrictions, accepts and agrees to accept the property and rights conveyed and to be conveyed to it by Ono Development Company, Inc. and agrees to perform the obligations and duties imposed on it by the terms of the above and foregoing Declaration of General Covenants and Restrictions.

PROPERTY OWNERS ASSOCIATION OF ONO ISLAND, INC.
BY: [Signature] (SEAL)
President

ATTEST

BY: [Signature]
Secretary



State of Alabama
County of Mobile

I, the undersigned, a Notary Public, in and for said State and County, do hereby certify that JERE AUSTILL, JR. and EVAN AUSTILL, whose names as President and Secretary, respectively, of Ono Development Company, Inc., an Alabama corporation, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they, as such officers and with full authority, executed the same voluntarily on the day the same bears date, for and as the act of said corporation.

GIVEN UNDER my hand and seal on this the 10th day of September, 1970.

Virginia Heidt NOTARY PUBLIC
MOBILE COUNTY, ALABAMA

State of Alabama
County of Mobile

I, the undersigned, a Notary Public, in and for said State and County, do hereby certify that Jere Austill Jr. and Evan Austill

whose names as President and Secretary, respectively, of Property Owners Association of Ono Island, Inc., an Alabama corporation, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they, as such officers and with full authority, executed the same voluntarily on the day the same bears date, for and as the act of said corporation.

GIVEN UNDER my hand and seal on this the 10th day of September, 1970.

Virginia Heidt NOTARY PUBLIC
MOBILE COUNTY, ALABAMA

THIS INSTRUMENT WAS PREPARED BY
JERE AUSTILL JR., ATTORNEY AT LAW
1005 VAN ANTWERP BUILDING
MOBILE, ALABAMA 36602

22 9/8 364

ACCEPTANCE BY LIENHOLDERS

We, the undersigned owners of liens covering the lands affected by this Declaration of General Covenants and Restrictions Applicable to Ono Island Subdivision, Baldwin County, Alabama, do hereby CONSENT and AGREE to all of the terms and conditions contained therein, and agree to the imposition of said covenants upon said lands.

DOT DOT CORPORATION, an Alabama Corporation
by: Dorothy H. Caron
As its President

attest
by: Thomas J. Langan
its Secretary

John C. Pace, Sr.
JOHN C. PACE, SR., TRUSTEE
Jere Austill, Jr.
Jere Austill, Jr., Individually & as Trustee
Evan Austill
Evan Austill, Individually & as Trustee

State of Alabama
County of Mobile

I, the undersigned, a Notary Public, in and for said State and County do hereby certify that Dorothy H. Caron and Thomas J. Langan whose names as President and Secretary, respectively of Dot Dot Corporation, an Alabama Corporation, are signed to the foregoing Acceptance and who are known to me, acknowledged before me on this day, that being informed of the contents of said acceptance, they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

GIVEN UNDER my hand and seal this 10th day of September 1970. Virginia Heidhardt NOTARY PUBLIC.

State of Florida
County of Escambia

I, the undersigned, a Notary Public, in and for said State and County do hereby certify that John C. Pace, Sr., whose name as Trustee, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that being informed of the contents of said instrument, he, in his capacity as such trustee, executed the same voluntarily on the day the same bears date.

GIVEN UNDER my hand and seal this 28th day of August 1970. Allen M. Herman NOTARY PUBLIC.

NOTARY PUBLIC, STATE OF FLORIDA
MY COMMISSION EXPIRES MAY 15, 1974
BONDED THROUGH FRED W. DUSTENHORST

STATE OF ALABAMA
County of Mobile

I, the undersigned, a Notary Public, in and for said State and County do hereby certify that Jere Austill, Jr. and Evan Austill, whose names individually and as Trustees are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day, that being informed of the contents of said instrument, they, individually, and in their respective capacities as such trustees, executed the same voluntarily on the day the same bears date.

GIVEN UNDER my hand and seal this 10th day of September,
1970.

Virginia Heidhardt

NOTARY PUBLIC



BOOK 22 PAGE 366

STATE OF ALABAMA,
BALDWIN COUNTY

I certify that this instrument was filed on

SEP 10 1970 320 P M

and that no tax was collected. Recorded in Micro

Book 22
Page 359-366 Judge of Probate

By [Signature]