

LEGAL DESCRIPTION

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1, BAYLAND HEIGHTS, A SUBDIVISION
ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 11, PAGE 48, OF THE PUBLIC
RECORDS OF LEE COUNTY, FLORIDA.
FROM SAID POINT OF COMMENCEMENT RUN NORTH 38° 25' 30" EAST FOR 32.50 FEET
ALONG THE EASTERLY RIGHT OF WAY OF BAYLANDS ROAD TO THE POINT OF BEGINNING
FROM SAID POINT OF BEGINNING CONTINUE NORTH 38° 25' 30" EAST FOR 35.70 FEET
PLUS OR MINUS TO THE CENTER OF AN EXISTING CONCRETE SEAWALL, THENCE RUN NORTH
85° 30' 00" WEST ALONG SAID SEAWALL FOR 12.05 FEET, THENCE RUN SOUTH 38° 25' 00"
WEST FOR 28.97 FEET, THENCE RUN SOUTH 51° 34' 30" EAST FOR 10.0 FEET TO THE POINT
OF BEGINNING.

LIS LAND SURVEYING, LLC

d.b.a. S & H Land Surveying Co.

RLS 2239

21430 PALM BEACH BLVD.

ALVA, FLORIDA 33920

239-481-2366 239-481-2437 (FAX)



10/23/14

R. L. SCHUMANN

REGISTERED LAND SURVEYOR NO. 2239

JOB NO: 10513

PAGE 2 OF 2

Town of Fort Myers Beach
JAN 06 2016
Received Community Devel.



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

This is a two part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit *one ORIGINAL paper copy, eleven (11) copies* and *one digital/electronic copy* of all required applications, supplemental information, exhibits and documents. Please do not print and copy the instructions at the end of the application.

PROJECT NUMBER: VAC16-0001 DATE: 1-6-2016

Site Address: 400 Bayland Road, Fort Myers Beach, FL 33931

STRAP Number: 28-46-24-W4-00400.0010

Applicant: Judy A. Haataja, c/o Noel Davies, Roetzel & Andress Phone: 239-338-4211

Contact Name: Noel Davies Phone: 239-338-4211

Email: ndavies@ralaw.com Fax: 239-337-0970

Current Zoning District: RS

Future Land Use Map (FLUM) Category: Low Density

FLUM Density Range: _____ Platted Overlay: YES NO

ACTION REQUESTED

SUPPLEMENTAL FORM REQUIRED

- | | |
|---|--------------------------|
| <input type="checkbox"/> Special Exception | PH-A |
| <input type="checkbox"/> Variance | PH-B |
| <input type="checkbox"/> Conventional Rezoning | PH-C |
| <input type="checkbox"/> Planned Development <input type="checkbox"/> Commercial <input type="checkbox"/> Residential | PH-D |
| <input type="checkbox"/> Master Concept Plan Extension | PH-E |
| <input type="checkbox"/> Appeal of Administrative Action | PH-F |
| <input checked="" type="checkbox"/> Vacation of Platted Right-of-way and Easement | PH-G |
| <input type="checkbox"/> Other – cite LDC Section: _____ | attach on separate sheet |

JAN 06 2016

Received Community Devel.

2320 First Street
Suite 1000
Fort Myers, FL 33901
DIRECT DIAL 239.338.4211
PHONE 239.337.3850 FAX 239.337.0970
ndavies@ralaw.com

WWW.RALAW.COM

December 30, 2015

Town of Fort Myers Beach
Community Development Department
2523 Estero Boulevard
Fort Myers Beach, Florida 33931

Re: Petition for Vacation of Right of Way
400 Bayland Road, Fort Myers Beach, FL 33931
Judy A. Haataja

Dear Community Development Department:

This applicant, Judy A. Haataja, seeks a *de minimus* vacation of approximately 300 square feet. The area sought to be vacated is a very small section at the bayside end of Bayland Road. Bayland Road was dedicated to the public's use as a road by plat and this vacation would have no effect on the original intended use of Bayland as a road. The applicant simply wants to conform with the Town's setback requirements as her lot is currently non-conforming.

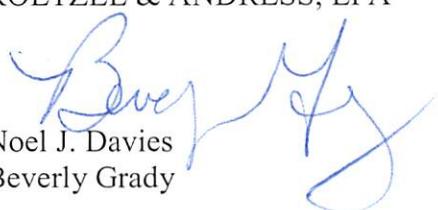
Any plans that the Town has to improve the bayside end of Bayland Road would be entirely unaffected by this vacation.

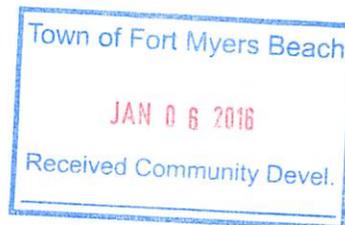
The vacation will not adversely affect the future land use map category or zoning district and is consistent with state and federal law. The public can still use Bayland Road for its original intended use as a road and this will simply vacate surplus property. The public will not specifically benefit nor be harmed because the vacation is of such a minor nature.

The application complies with Section 10-219 of the Code and the vacation is *de minimis* in area, cost, and overall impact. Therefore, based on Section 10-220(e), the applicant respectfully requests that the Town Council exempt the vacation from the public hearing process.

Respectfully submitted,

ROETZEL & ANDRESS, LPA


Noel J. Davies
Beverly Grady



PART I - General Information

A. Applicant*: Judy A. Haataja, c/o Noel Davies Phone: 239-338-4211

*Applicant must submit a statement under oath that he/she is the authorized representative of the property owner. Please see PART III to complete the appropriate Affidavit form for the type of applicant.

Applicant Mailing Address: 2320 First Street, #1000, Ft. Myers, FL 33901

Email: ndavies@ralaw.com Fax: 239-337-0970

Contact Name: Noel Davies Phone: 239-338-4211

B. Relationship of Applicant to subject property:

- Owner*, Land Trust*, Partnership*, Corporation*, Association*, Condominium*, Subdivision*, Timeshare Condo*, Contract Purchaser*, [X] Authorized Representative*, Other* (please indicate)

*Applicant must submit a statement under oath that he/she is the authorized representative of the property owner. Please see PART III to complete the appropriate Affidavit form for the type of applicant.

C. Authorized Agent(s). Please list the name of Agent authorized to receive correspondence Agents

Name: Phone:

Address:

Email: Fax:

D. Other Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: Phone:

Address:

Email: Fax:

Name: Phone:

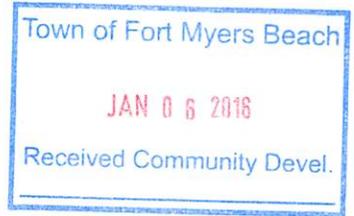
Address:

Email: Fax:

Name: Phone:

Address:

Email: Fax:



PART II - Nature of Request

Requested Action (each request requires a separate application)

- Special Exception
- Variance from LDC Section _____ - _____
- Conventional Rezoning from _____ to _____
- Planned Development
 - Rezoning from _____ to Commercial PD Residential PD
 - Amendment. List the project number: _____
 - Extension/reinstatement of Master Concept Plan. List project number: _____
- Appeal of Administrative Action
- Vacation Right-of-Way Easement
- Other. Please Explain: _____

PART III - Waivers

Please indicate any specific submittal items that have been waived by the Director for the request. Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

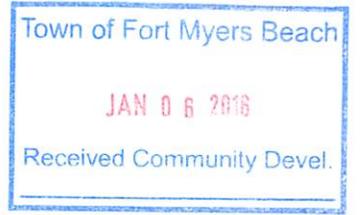
- Code Section: _____ Description: _____

- Code Section: _____ Description: _____

- Code Section: _____ Description: _____

PART IV - Property Ownership

- Single Owner (individual or husband and wife)
 - Name: Judy A. Haataja Phone: 239-850-2243
 - Mailing Address: 400 Bayland Road, Fort Myers Beach, FL 33931
 - Email: _____ Fax: _____



- Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)
 - Complete Disclosure of Interest Form (see below)
 - Attach list of property owners as Exhibit 4-1
 - Attach map showing property owners interests as Exhibit 4-2 (for multiple parcels)
 - For condominiums and timeshares see Explanatory Notes Part IV (Page 11)

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: 28-46-24-W4-00400.0010

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address	Percentage Ownership
<u>Judy A. Haataja</u>	<u>100%</u>
<u> </u>	<u> </u>

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address and Office	Percentage of Stock
<u> </u>	<u> </u>

EXHIBIT D



If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address	Percentage of Interest
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

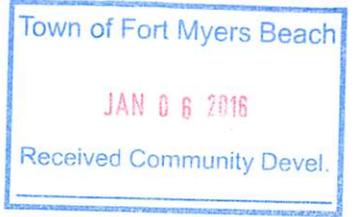
If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address	Percentage of Ownership
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office	Percentage of Stock
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of Contract: _____

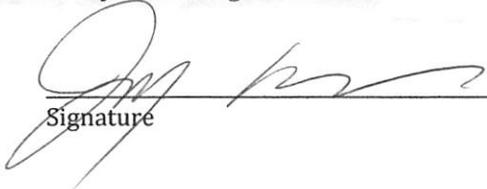


If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

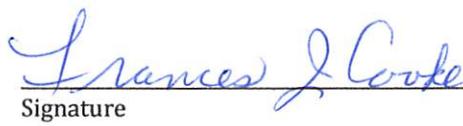

Signature

Judy A. Haataja
Printed Name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was sworn to (or affirmed) and subscribed before me on 8-27-15 (date) by Judy Haataja (name of person providing oath or affirmation), who is personally known to me or who has produced _____ (type of identification) as identification.




Signature

FRANCES J COOKE
Printed Name



PART V – Property Information

A. Legal Description:

STRAP: 28-46-24-W4-00400.0010

Property Address: 400 Bayland Road, Fort Myers Beach, FL 33931

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? No. Attach a legible copy of the legal description as Exhibit 5-1.

Yes. Property identified in subdivision: Bayland Heights

Book: 11 Page: 48 Unit: Block: Lot(s): 1

B. Boundary Survey:

Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. Attach and label as Exhibit 5-2.

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 100 feet

Depth (please provide an average width if irregular in shape) 110 feet

Frontage on street: 33 feet. Frontage on waterbody: 120 feet

Total land area: @ 8,850 acres square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):

Head South/East on Estero Blvd., Turn left on Bayland Road. The property is the last property on the right side of Bayland Road.

Attach Area Location Map as Exhibit 5-3

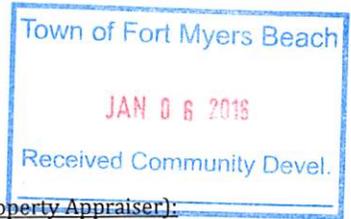
E. Property Restrictions (check applicable):

There are no deed restrictions and/or covenants on the subject property.

A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 5-4.

A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 5-5.

EXHIBIT D



F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

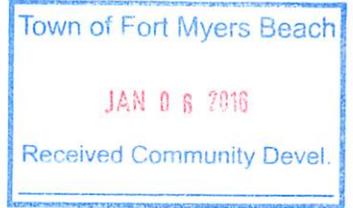
- Attach a list of surrounding property owners within 500 feet as Exhibit 5-6.
- Attach a map showing the surrounding property owners as Exhibit 5-7.
- Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

- | | |
|---|--|
| <input checked="" type="checkbox"/> Low Density | <input type="checkbox"/> Marina |
| <input type="checkbox"/> Mixed Residential | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Boulevard | <input type="checkbox"/> Wetlands |
| <input type="checkbox"/> Pedestrian Commercial | <input type="checkbox"/> Platted Overlay |

H. Zoning (see official Zoning Map):

- | | |
|--|--|
| <input checked="" type="checkbox"/> RS (Residential Single-family) | <input type="checkbox"/> CF (Community Facilities) |
| <input type="checkbox"/> RC (Residential Conservation) | <input type="checkbox"/> IN (Institutional) |
| <input type="checkbox"/> RM (Residential Multifamily) | <input type="checkbox"/> BB (Bay Beach) |
| <input type="checkbox"/> RPD (Residential Planned Development) | <input type="checkbox"/> EC (Environmentally Critical) |
| <input type="checkbox"/> CM (Commercial Marine) | <input type="checkbox"/> DOWNTOWN |
| <input type="checkbox"/> CO (Commercial Office) | <input type="checkbox"/> SANTOS |
| <input type="checkbox"/> CB (Commercial Boulevard) | <input type="checkbox"/> VILLAGE |
| <input type="checkbox"/> CR (Commercial Resort) | <input type="checkbox"/> SANTINI |
| <input type="checkbox"/> CPD (Commercial Planned Development) | |



PART VI
AFFIDAVIT
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Noel Davies swear or affirm under oath, that I am the ~~owner or the~~ authorized representative of the owner(s) of the property and that:

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;

All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that

The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

[Signature]
Signature of owner or authorized agent

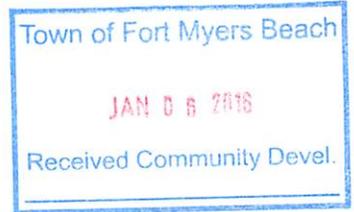
12/28/15
Date

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was sworn to (or affirmed) and subscribed before me on 12/28/15 (date) by Noel Davies (name of person providing oath or affirmation), who is personally known to me or who has produced n/a (type of identification) as identification.



Catherine Louise
Signature
Catherine Louise
Printed Name



LETTER OF AUTHORIZATION

The undersigned does hereby swear or affirm that she is the property owner for the property known as STRAP No. 28-46-24-W4-00400.0010, 400 Bayland Road, Ft. Myers Beach, Florida 33931.

The undersigned hereby designates the firm of Roetzel & Andress, including NOEL DAVIES and BEVERLY GRADY, as agents to file an Application for vacation of right-of-way concerning the above-referenced property.

Judy A. Haataja (handwritten signature)

STATE OF FLORIDA

COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 27 day of August, 2015, by JUDY A. HAATAJA, Inc., who [X] is personally known to me OR [] has produced a driver's license as identification.

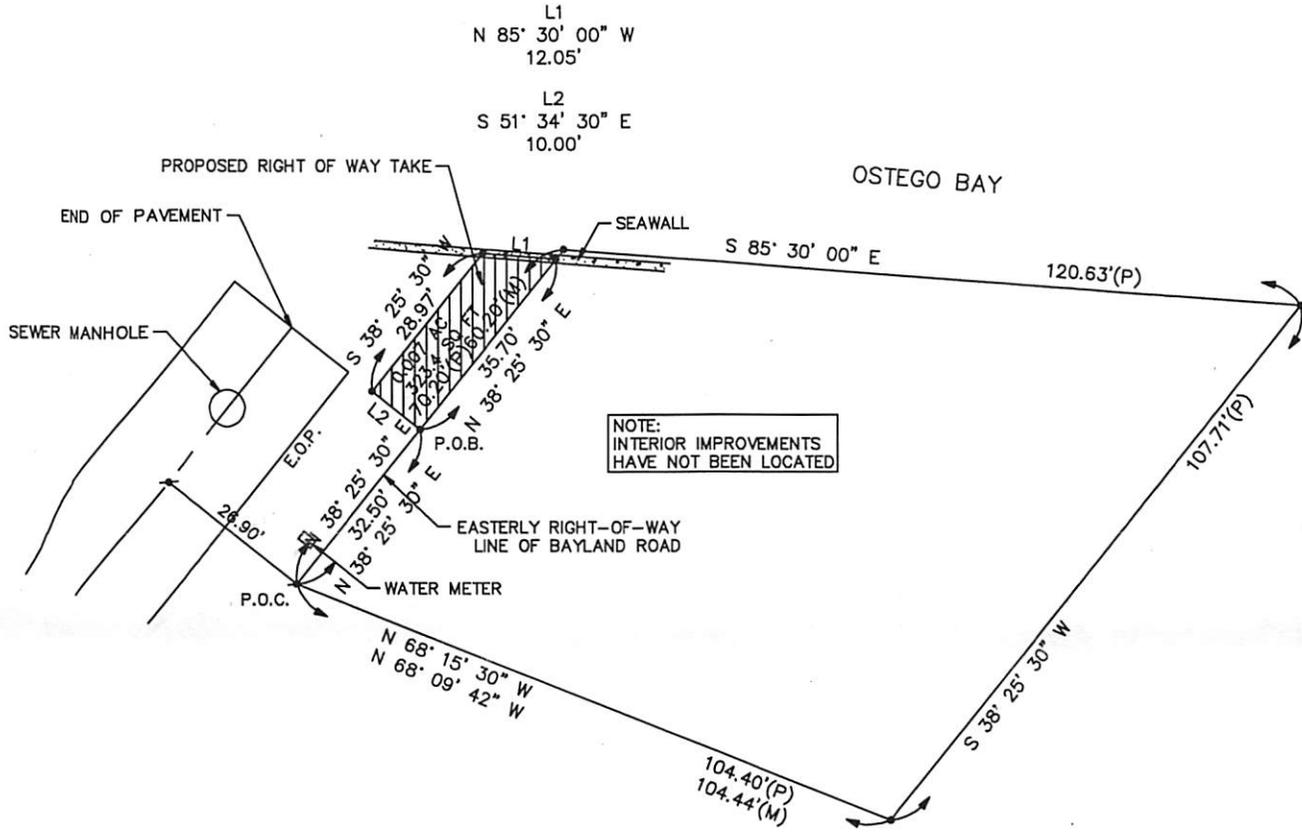
Frances J Cooke (handwritten signature)
Notary Public
My commission expires: 4-22-18

[NOTARY STAMP/SEAL]



Town of Fort Myers Beach
JAN 06 2015
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SPECIFIC PURPOSE SURVEY



NOTE:
INTERIOR IMPROVEMENTS
HAVE NOT BEEN LOCATED

SCALE: 1"=30"

LIS LAND SURVEYING, LLC

d.b.a. S & H Land Surveying Co.
RLS 2239
21430 PALM BEACH BLVD.
ALVA, FLORIDA 33920
239-481-2366 239-481-2437 (FAX)

R. L. Schumann 10/23/14

R. L. SCHUMANN
REGISTERED LAND SURVEYOR NO. 2239

JOB NO: 10513

ALL-STATE LEGAL®
EXHIBIT
5-2

PAGE 1 OF 2

REGISTERED LAND SURVEYOR NO. 2239

R. L. SCHUMANN

10/23/14

R. L. Schumann

239-481-2366 239-481-2437 (FAX)

ALVA, FLORIDA 33920

21430 PALM BEACH BLVD.

RLS 2239

d.b.a. S & H Land Surveying Co.

LIS LAND SURVEYING, LLC

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1, BAYLAND HEIGHTS, A SUBDIVISION
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PLUS OR MINUS TO THE CENTER OF AN EXISTING CONCRETE SEAWALL, THENCE RUN NORTH
85.30' 00" WEST ALONG SAID SEAWALL FOR 12.05 FEET, THENCE RUN SOUTH 38.25' 00"
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OF BEGINNING.

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Town of Fort Myers Beach

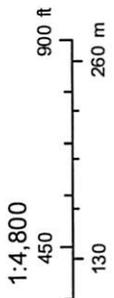
EXHIBIT D

GeoView Map



August 11, 2015

- I - 75
- US 41
- Other Highways
- Other Roads



Town of Fort Myers Beach
JAN 6 6 2016
Received Community Devel.



Lee County Property Appraiser

Kenneth M. Wilkinson, C.F.A.

GIS Department / Map Room

Phone: (239) 533-6159 • Fax: (239) 533-6139 • eMail: MapRoom@LeePA.org

Town of Fort Myers Beach

JAN 06 2015

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VARIANCE REPORT

Date of Report: 9/15/2015 11:42:27 AM
Buffer Distance: 500 ft
Parcels Affected: 76
Subject Parcels: 28-46-24-W4-00400.0010

<u>OWNER NAME AND ADDRESS</u>	<u>STRAP AND LOCATION</u>	<u>LEGAL DESCRIPTION</u>	<u>MAP INDEX</u>
ST SNOOK BIGHT LLC 17330 PRESTON RD STE 220A DALLAS, TX 75252	28-46-24-W4-00001.0030 4761/4765 ESTERO BLVD FORT MYERS BEACH FL 33931	PARL IN SW 1/4 DESC OR 3280 PG 2023	2
KELLY STEPHEN J 29 OLD SMITHY LN WETHERSFIELD, CT 06109	28-46-24-W4-00005.0050 5 GLENVIEW MANOR DR FORT MYERS BEACH FL 33931	FR NELY COR LT1 BLK B HOLI DAY HGTS NE50 TH NW52 TH N E360 TH SE20 TO POB AKA LT 5 GLENVIEW MANOR U/R	3
KRUGER GERTRUDE B TR 6 GLENVIEW MANOR DR FORT MYERS BEACH, FL 33931	28-46-24-W4-00005.0060 6 GLENVIEW MANOR DR FORT MYERS BEACH FL 33931	BEG N 38 DEG 25 MIN 30 SEC E 410.02 FT + N 49 DEG 56 MIN 30 SEC W 32.02 FT OF N	4
ROBERTSON MICHAEL R TR + 7 GLENVIEW MANOR DR FORT MYERS BEACH, FL 33931	28-46-24-W4-00005.0070 7 GLENVIEW MANOR DR FORT MYERS BEACH FL 33931	BEG N MOST COR LOT 1 BLK B HOLIDAY HTS N 38 DEG 25 MIN 30 SEC E FOR 50.02	5
COX JANE F 8 GLENVIEW MANOR DR FORT MYERS BEACH, FL 33931	28-46-24-W4-00005.0080 8 GLENVIEW MANOR DR FORT MYERS BEACH FL 33931	BEG N 30 DEG 25 MIN 30 SEC E 680.02 FT + N 49 DEG 56 MIN 30 SEC W 32.02 FT OF N	6
GLENVIEW MANOR HOMEOWNERS 10 GLENVIEW MANOR DR FORT MYERS BEACH, FL 33931	28-46-24-W4-00005.00CE GLENVIEW MANOR C/E FORT MYERS BEACH FL	20 FT PRIVATE R/W KNOWN AS GLENVIEW MANOR DR C/E	7
RAYMOND ROBERT L + DONNA M TR 393 DONORA BLVD FORT MYERS BEACH, FL 33931	28-46-24-W4-0010B.0070 4810 COQUINA RD FORT MYERS BEACH FL 33931	HOLIDAY SHORES BLK B PB 9 PG 33 LOT 7 + PT LOT 8	8
GREEN JOE SCOTT + SHEILA J 3116 COVINGTON ST WEST LAFAYETTE, IN 47906	28-46-24-W4-0010B.0080 4830 COQUINA RD FORT MYERS BEACH FL 33931	HOLIDAY SHORES BLK B PB 9 PG 33 LOTS PT 8 + 9	9
EGAN TERENCE + DEBORAH 8601 W 132ND PL CEDAR LAKE, IN 46303	28-46-24-W4-0010B.0090 4850 COQUINA RD FORT MYERS BEACH FL 33931	HOLIDAY SHORES BLK B PB 9 PG 33 LOTS PT 9 + 10	10
GARZELLONI JOHN JR 1413 SWINNEY PARK PL FORT WAYNE, IN 46802	28-46-24-W4-0010B.0110 4870 COQUINA RD FORT MYERS BEACH FL 33931	HOLIDAY SHORES BLK B PB 9 PG 33 LOT 11 + SELY 34 FT LOT 10	11
ESKIN HAROLD S + KATHY F 4880 COQUINA RD FORT MYERS BEACH, FL 33931	28-46-24-W4-0010B.0120 4880 COQUINA RD FORT MYERS BEACH FL 33931	HOLIDAY SHORES BLK B PB 9 PG 33 LOT 12	12
SIMMONS CARLEEN J 315 BAYLAND RD FORT MYERS BEACH, FL 33931	28-46-24-W4-0010C.0010 315 BAYLAND RD FORT MYERS BEACH FL 33931	HOLIDAY SHORES BLK C PB 9 PG 33 LOT 1	13
PARMER ANITA G 4870 DOLPHIN LN FORT MYERS BEACH, FL 33931	28-46-24-W4-0010C.0020 4870 DOLPHIN LN FORT MYERS BEACH FL 33931	HOLIDAY SHORES BLK C PB 9 PG 33 LOT 2	14
HILDERBRANDT STEVE P TR + 1874 EDSON DR HUDSONVILLE, MI 49426	28-46-24-W4-0010C.0030 4861 COQUINA RD FORT MYERS BEACH FL 33931	HOLIDAY SHORES BLK C PB 9 PG 33 LOT 3	15
SEYMOUR JANET G 4841 COQUINA RD FORT MYERS BEACH, FL 33931	28-46-24-W4-0010C.0040 4841 COQUINA RD FORT MYERS BEACH FL 33931	HOLIDAY SHORES BLK C PB 9 PG 33 LOT 4	16

EXHIBIT D

Town of Fort Myers Beach

JAN 0 8 2015

Received Community Devel.

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
ROSA CHESTER B PO BOX 66441 SAINT PETERSBURG, FL 33736	28-46-24-W4-0010C.0050 4831 COQUINA RD FORT MYERS BEACH FL 33931	HOLIDAY SHORES BLK C PB 9 PG 33 LOT 5	17
TARTAGLIA PAUL E + JUDITH T 134 TARTS RD MORETOWN, VT 05660	28-46-24-W4-0010C.0060 4811 COQUINA RD FORT MYERS BEACH FL 33931	HOLIDAY SHORES BLK C PB 9 PG 33 LOT 6	18
FREEMAN PHILIP E + NADINE M 375 BAYLAND RD FORT MYERS BEACH, FL 33931	28-46-24-W4-0010D.0010 375 BAYLAND RD FORT MYERS BEACH FL 33931	HOLIDAY SHORES BLK D PB 9 PG 33 LOT 1 LESS PARL .001A	19
HORNACK RICHARD M + CAROL J 395 BAYLAND RD FORT MYERS BEACH, FL 33931	28-46-24-W4-0010D.001A 395 BAYLAND RD FORT MYERS BEACH FL 33931	HOLIDAY SHORES BLK D PB 9 PG 33 NLY PT LOT 1 PER SERVEY	20
ROBERTSON GLINDA J 830 SANDBAR RD CHAPIN, SC 29036	28-46-24-W4-0010D.0020 4855 DOLPHIN LN FORT MYERS BEACH FL 33931	HOLIDAY SHORES BLK D PB 9 PG 33 LOT 2 LESS PAR 2-A	21
ACKERT ROBERT P 4851 DOLPHIN LN FORT MYERS BEACH, FL 33931	28-46-24-W4-0010D.0030 4851 DOLPHIN LN FORT MYERS BEACH FL 33931	HOLIDAY SHORES BLK D PB 9 PG 33 POR OF LOT 2 FR SELY COR + LOT 3	22
AMOS ROY A 4841 DOLPHIN LN FORT MYERS BEACH, FL 33931	28-46-24-W4-0010D.0040 4841 DOLPHIN LN FORT MYERS BEACH FL 33931	HOLIDAY SHORES BLK D PB 9 PG 33 LOT 4	23
CASSIDY RICHARD + 390 BAYLAND RD FORT MYERS BEACH, FL 33931	28-46-24-W4-00400.0020 390 BAYLAND RD FORT MYERS BEACH FL 33931	BAYLAND HEIGHTS PB 11 PG 48 LOT 2	24
MCCONNELL MARK C + BARBARA + 380 BAYLAND RD FORT MYERS BEACH, FL 33931	28-46-24-W4-00400.0030 380 BAYLAND RD FORT MYERS BEACH FL 33931	BAYLAND HEIGHTS PB 11 PG 48 LOT 3	25
OLSON KEITH + KATHLEEN TR 370 BAYLAND RD FORT MYERS BEACH, FL 33931	28-46-24-W4-00400.0040 370 BAYLAND RD FORT MYERS BEACH FL 33931	BAYLAND HEIGHTS PB 11 PG 48 LOT 4	26
HEMING DANIELLE + 360 BAYLAND RD FORT MYERS BEACH, FL 33931	28-46-24-W4-00400.0050 360 BAYLAND RD FORT MYERS BEACH FL 33931	BAYLAND HEIGHTS PB 11 PG 48 LOT 5	27
DANIEL DONALD M + BARBARA A TR 350 BAYLAND RD FORT MYERS BEACH, FL 33931	28-46-24-W4-00400.0060 350 BAYLAND RD FORT MYERS BEACH FL 33931	BAYLAND HEIGHTS PB 11 PG 48 LOT 6	28
OHLEMACHER LOIS A TR 310 VASSAR AVE ELYRIA, OH 44035	28-46-24-W4-00400.0070 340 BAYLAND RD FORT MYERS BEACH FL 33931	BAYLAND HEIGHTS PB 11 PG 48 LOT 7	29
LINDSEY HELEN P TR 330 BAYLAND RD FORT MYERS BEACH, FL 33931	28-46-24-W4-00400.0080 330 BAYLAND RD FORT MYERS BEACH FL 33931	BAYLAND HEIGHTS PB 11 PG 48 LOT 8	30
MCLACHLAN ROY J + ELIZA C WEST KINCAPLE HOUSE KINCAPLE ST ANDREWS KY16 9SH, UNITED KINGDOM	28-46-24-W4-00400.0190 21690 MADERA RD FORT MYERS BEACH FL 33931	BAYLAND HEIGHTS PB 11 PG 48 LOT 19	31
BAKER RICHARD S TR 4135 BEXLEY DR BROOKFIELD, WI 53045	28-46-24-W4-00400.0200 21670 MADERA RD FORT MYERS BEACH FL 33931	BAYLAND HEIGHTS PB 11 PG 48 LOT 20	32
MILLER LYNN M + N120W15241 FREISTADT RD GERMANTOWN, WI 53022	28-46-24-W4-00400.0210 21650 MADERA RD FORT MYERS BEACH FL 33931	BAYLAND HEIGHTS PB 11 PG 48 LOT 21	33
SHIREMAN KATHY D 3770 WALTERS RD LANESVILLE, IN 47136	28-46-24-W4-00400.0220 21630 MADERA RD FORT MYERS BEACH FL 33931	BAYLAND HEIGHTS PB 11 PG 48 LOT 22	34
NEUJAHR EWALD E A 15 POSTOAKS DR MOUNT HOPE, ON L0R 1W0 CANADA	28-46-24-W4-00400.0230 21610 MADERA RD FORT MYERS BEACH FL 33931	BAYLAND HEIGHTS PB 11 PG 48 LOT 23	35
NELSON BRIAN G + LUCIANA A 254 S MAIN ST STE 104 NEW CITY, NY 10956	28-46-24-W4-00400.0240 21590 MADERA RD FORT MYERS BEACH FL 33931	BAYLAND HEIGHTS PB 11 PG 48 LOT 24	36

All data is current at time of printing and subject to change without notice.
THE INFORMATION CONTAINED IN THIS REPORT IS GOVERNED BY FLORIDA STATUTE 119.071
(GENERAL EXEMPTIONS FROM INSPECTION OR COPYING OF PUBLIC RECORDS).

EXHIBIT D

JAN 06 2013

Received Community Devel.

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
BISCHOFF JAMES A + JEAN B TR 21570 MADERA RD FORT MYERS BEACH, FL 33931	28-46-24-W4-00400.0250 21570 MADERA RD FORT MYERS BEACH FL 33931	BAYLAND HEIGHTS PB 11 PG 48 LOT 25 PART OF VACATED	37
CLARK JACK D + PAMELA J 5160 WILLIAMS DR FORT MYERS BEACH, FL 33931	28-46-24-W4-00400.0260 21550 MADERA RD FORT MYERS BEACH FL 33931	BAYLAND HEIGHTS PB 11 PG 48 LOT 26 + PART OF VACATED CUL DE SAC	38
PATCHIN GWENDOLYN K TR 21530 MADERA RD FORT MYERS BEACH, FL 33931	28-46-24-W4-00400.0270 21530 MADERA RD FORT MYERS BEACH FL 33931	BAYLAND HEIGHTS PB 11 PG 48 LOT 27 + PART OF VACATED	39
REID WILLIAM S L/E 21510 MADERA RD FORT MYERS BEACH, FL 33931	28-46-24-W4-00400.0280 21510 MADERA RD FORT MYERS BEACH FL 33931	BAYLAND HEIGHTS PB 11 PG 48 LOT 28 LS RD + OR474 PG 363	40
MUNGER JOHN E + LESLIE G 14 DUKES LN LINCOLNSHIRE, IL 60069	28-46-24-W4-00500.0010 21501 MADERA RD FORT MYERS BEACH FL 33931	YACHTSMANS COVE PB 28 PG 61 LOT 1	41
WALROD TERESA L PER REP + 21521 MADERA RD FORT MYERS BEACH, FL 33931	28-46-24-W4-00500.0020 21521 MADERA RD FORT MYERS BEACH FL 33931	YACHTSMAN COVE PB 28 PG 61 LOT 2	42
METZ JACK + DONNA 21531 MADERA RD FORT MYERS BEACH, FL 33931	28-46-24-W4-00500.0030 21531 MADERA RD FORT MYERS BEACH FL 33931	YACHTSMAN COVE PB 28 PG 61 LOT 3	43
SWANK LARRY A + SHERRY L 1155 DUNROBBIN LN SOUTH BEND, IN 46614	28-46-24-W4-00500.0040 21541 MADERA RD FORT MYERS BEACH FL 33931	YACHTSMAN COVE PB 28 PG 61 LOT 4	44
CAMPBELL JOHANNA 21551 MADERA RD FORT MYERS BEACH, FL 33931	28-46-24-W4-00500.0050 21551 MADERA RD FORT MYERS BEACH FL 33931	YACHTSMAN COVE PB 28 PG 61 LOT 5	45
CLAWSON CHARLES H + BARBARA 21571 MADERA RD FORT MYERS BEACH, FL 33931	28-46-24-W4-00500.0060 21571 MADERA RD FORT MYERS BEACH FL 33931	YACHTSMAN COVE PB 28 PG 61 LOT 6	46
BEAMAN JAMES A JR + LINDA K OLD NATIONAL WEALTH MGMT 116 E BERRY ST FORT WAYNE, IN 46802	28-46-24-W4-00500.0070 21591 MADERA RD FORT MYERS BEACH FL 33931	YACHTSMAN COVE PB 28 PG 61 LOT 7	47
RAMOS DENNIS T TR 21611 MADERA RD FORT MYERS BEACH, FL 33931	28-46-24-W4-00500.0080 21611 MADERA RD FORT MYERS BEACH FL 33931	YACHTSMAN COVE PB 28 PG 61 LOT 8	48
WAZNEY MARION L TR 38621 DODDS LNDG WILLOUGHBY, OH 44094	28-46-24-W4-00500.0090 21631 MADERA RD FORT MYERS BEACH FL 33931	YACHTSMAN COVE PB 28 PG 61 LOT 9	49
WAZNEY JOHN L + MARION L 38621 DODDS LANDING WILLOUGHBY, OH 44094	28-46-24-W4-00500.0100 21651 MADERA RD FORT MYERS BEACH FL 33931	YACHTSMAN COVE PB 28 PG 61 LOT 10	50
REPETTO STEPHEN W + GAYLE F 21671 MADERA RD FORT MYERS BEACH, FL 33931	28-46-24-W4-00500.0110 21671 MADERA RD FORT MYERS BEACH FL 33931	YACHTSMAN COVE PB 28 PG 61 LOT 11	51
YACHTSMANS COVE HOMEOWNERS CARRIE DOINE 21611 MADERA RD FORT MYERS BEACH, FL 33931	28-46-24-W4-0050A.00CE RIGHT OF WAY FORT MYERS BEACH FL 33931	YACHTSMANS COVE PB 28 PG 61 LOT A	52
PUBLIX SUPER MARKETS INC EXPENSE PAYABLES LEASE TEAM PO BOX 32025 LAKELAND, FL 33802	28-46-24-W4-00001.0040 4791 ESTERO BLVD FORT MYERS BEACH FL 33931	PAR IN SW 1/4 DESC OR 3181 PG 2220	53
YACHTSMANS COVE HOMEOWNERS CARRIE DOINE 21611 MADERA RD FORT MYERS BEACH, FL 33931	28-46-24-W4-0050L.00CE SUBMERGED FORT MYERS BEACH FL	YACHTSMANS COVE PB 28 PG 61 LOTS L + P	54
SCHMIDT JENIFER 11330 COMPASS POINT DR FORT MYERS, FL 33908	28-46-24-W4-03000.0105 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 5 UNIT 105	55

EXHIBIT D

Town of Fort Myers Beach

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
WAKENEK INTERESTS LLC 351 MANNING RD MOGADORE, OH 44260	28-46-24-W4-03000.0106 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 6 UNIT 106	55 <i>Received Community Devel.</i>
PARRISH D MICHAEL + CHRISTINE 1256 FIRETHORNE CLUB DR WAXHAW, NC 28173	28-46-24-W4-03000.0107 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 7 UNIT 107	55
FINDLEY JOHN W PO BOX 485 OCONOMOWOC, WI 53066	28-46-24-W4-03000.0108 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 8 UNIT 108	55
COYLE MICHAEL D + MARIANNE 29 ARCTIC SPRINGS JEFFERSONVILLE, IN 47131	28-46-24-W4-03000.0109 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 9 UNIT 109	55
LUTHER JEFFREY L + DEBRA A 5009 S OLD YANKTON PL SIOUX FALLS, SD 57108	28-46-24-W4-03000.0110 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 10 UNIT 110	55
VINCI JAMES P + VIRGINIA M 1416 SUNFLOWER ST YORKTOWN HEIGHTS, NY 10598	28-46-24-W4-03000.0111 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 11 UNIT 111	55
OMDOLL PAUL A 2921 LEONARDO AVE NAPLES, FL 34119	28-46-24-W4-03000.0112 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 12 UNIT 112	55
YERKES JOSEPH E JR 18243 DEEP PASSAGE LAND FORT MYERS BEACH, FL 33931	28-46-24-W4-03000.0113 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2014000030511 AIRSPACE PH 13 UNIT 113	55
PATCH JOHN + HOLLI 3071 LAKE SHORE BLVD WAYZATA, MN 55391	28-46-24-W4-03000.0205 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 21 UNIT 205	55
KOZAK RAYMOND J TR 215 SADDLEBOW RD BELL CANYON, CA 91307	28-46-24-W4-03000.0206 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 22 UNIT 206	55
RAYMOND ROBERT L + DONNA M 393 DONORA BLVD FORT MYERS BEACH, FL 33931	28-46-24-W4-03000.0304 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 36 UNIT 304	55
TUYLS JOSHUA J + BETH ANN 290 DUNDEE RD FORT MYERS BEACH, FL 33931	28-46-24-W4-03000.0305 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 37 UNIT 305	55
NEHRING RANDALL J 2908 SPRUCELEIGH CT SIOUX FALLS, SD 57105	28-46-24-W4-03000.0307 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 39 UNIT 307	55
SAMU KENNETH 6 TIMBERWOLF DR TRENTON, NJ 08620	28-46-24-W4-03000.0308 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 40 UNIT 308	55
MILLER PHILIP G + SANDRA A 833 CHERRYWOOD JACKSON, MI 49203	28-46-24-W4-03000.0310 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 42 UNIT 310	55
LIST H A REGIONS BANK-JAY BOWMAN PO BOX 2918 CLEARWATER, FL 33757	28-46-24-W4-03000.0405 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 61 UNIT 405	55
PIEDMONT SERVICES INC 3541 QUILL LEAF CT BONITA SPRINGS, FL 34134	28-46-24-W4-03000.0407 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 63 UNIT 407	55

EXHIBIT D

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
FARQUHAR STEPHEN A + MARGARET 215 RANCIER ST NORTH BAY, ON P1B 8M3 CANADA	28-46-24-W4-03000.0411 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST#2008000316726 AIRSPACE PH 67 UNIT 411	55
PRIORY RICHARD B + JOAN E R TR 5051 PELICAN COLONY BLVD #503 BONITA SPRINGS, FL 34134	28-46-24-W4-03000.0504 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 84 UNIT 504	55
STOTTS LYNN + KEITH + 6 BENT TREE LN SAINT PAUL, MN 55127	28-46-24-W4-03000.0506 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 AIRSPACE PH 86 UNIT 506	55
LEWIS KEARSLEY BARTON 1313 TRIANDRA LN NAPLES, FL 34119	28-46-24-W4-03000.0722 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 200900009146 AIRSPACE PH 134 UNIT 722	55
ST SNOOK BIGHT LLC 17330 PRESTON RD STE 220A DALLAS, TX 75252	28-46-24-W4-0300A.0000 DRY RACK CONDO FORT MYERS BEACH FL 33931	SNOOK BIGHT MARINA DRY RACK CONDO AS DESC IN INST# 2008000219575 RESERVE FOR FUTURE AIRSPACE UNITS	56

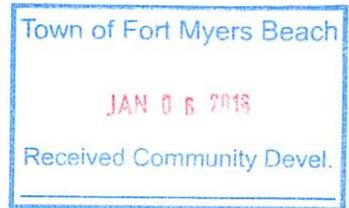


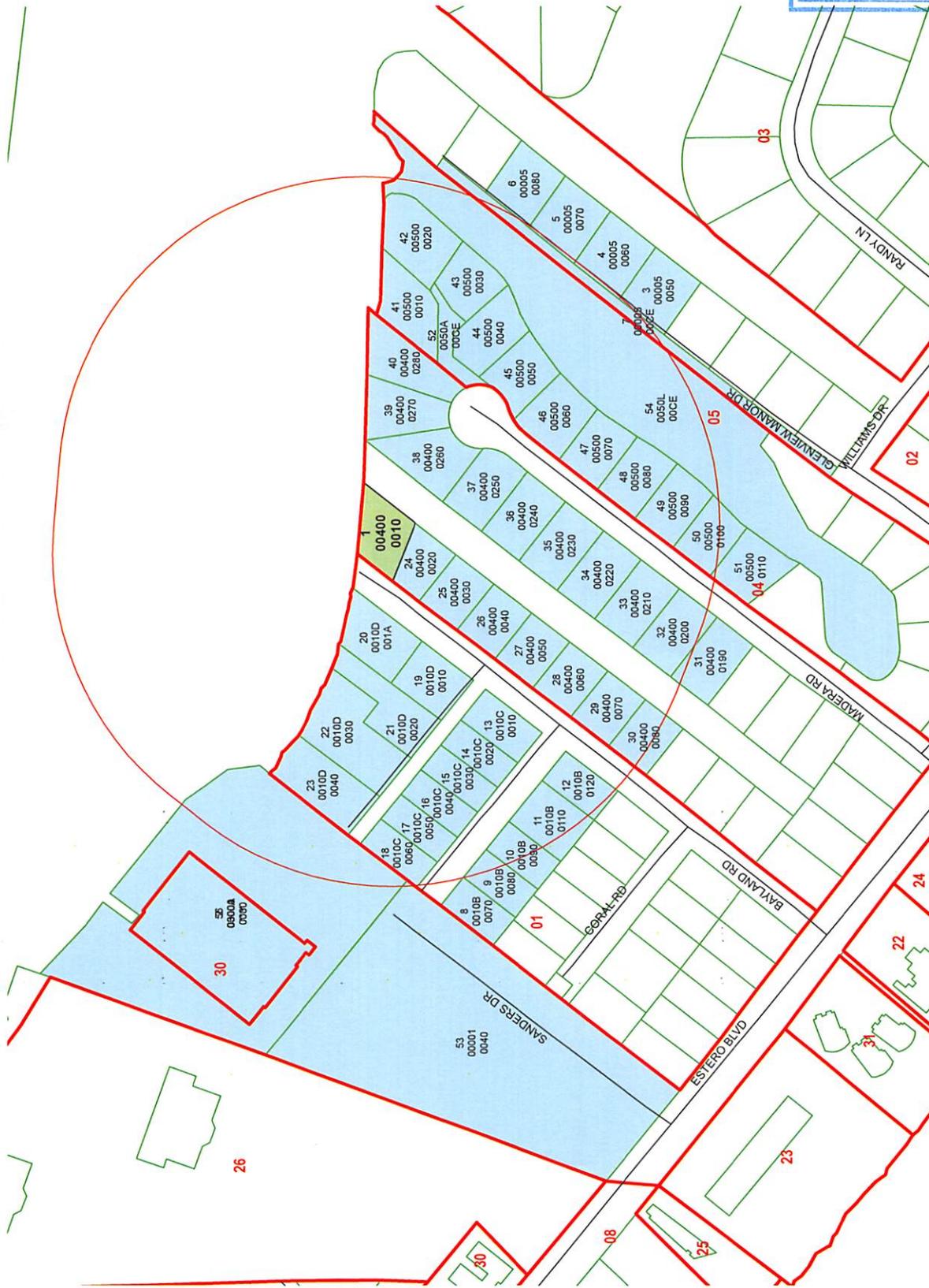
EXHIBIT D

Town of Fort Myers Beach
JAN 06 2016
Received Community Devel.

9/15/2015

VARIANCE REPORT

Subject Parcels: 1 Affected Parcels: 76 Buffer Distance: 500 ft



THE INFORMATION CONTAINED IN THIS REPORT IS GOVERNED BY FLORIDA STATUTE 119.071 (GENERAL EXEMPTIONS FROM INSPECTION OR COPYING OF PUBLIC RECORDS)

28-46-24-W4-00400.0010



Ex 5-7

Town of Fort Myers Beach
JAN 06 2016
Received Community Devel.



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

SUPPLEMENT PH-G

Petition for Vacation of Platted Rights-of-Way and Easements

This is the second part of a two part application. Please be sure to include the Administrative Action Application, which requires general information, with this supplemental form requiring specific information regarding a **Vacation of a Right-of-Way or Easement**. Please submit *two paper copies* and *one digital/electronic copy* of all required applications, supplemental information, exhibits and documents.

PROJECT NUMBER: VAR16-0001 DATE: 1-6-2016

Type of Vacation: Right-of-Way (Form A) Easement (Form B)
 Plat - no ROW

Site Address: 400 Bayland Road, Fort Myers Beach, FL 33931

STRAP Number (use additional sheets if necessary): 28-46-24-w4-00400.0010

Petitioner: Judy A. Haataja, c/o Noel Davies, Roetzel & Andress Phone: 239-338-4211

Authorized Agent: Noel Davies Phone: 239-338-4211

Petitioner/Agent Address: Roetzel & Andress, 2320 First Street, #1000, Ft. Myers FL 33901

Email: ndavies@ralaw.com Fax: 239-337-0970

Please provide a statement of the reason(s) for seeking the vacation (use additional sheets if necessary): See attached letter.

JAN 6 6 2018

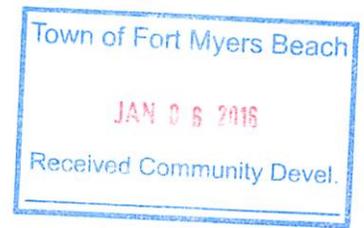
Received Community Devel.

All petitions seeking to vacate platted rights-of-way and easements must comply with the requirements below. (LDC Section 10-219)

*** INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED OR PROCESSED****

- A signed Petition, either Form A (F.S. Ch. 336) or Form B (F.S. Ch. 117) for each vacation request.
- A legal description of the area sought to be vacated and a recent survey prepared and executed by a registered surveyor showing the area sought to be vacated. (Please label as Exhibit A) The survey must show the location of all existing improvements including, but not limited to:
 - drainage facilities
 - all public and private utilities
 - surface water management facilities
 - pavement
 - buildings
 - any other physical features within 100 feet of the real property
- A copy of the plat showing the area(s) to be vacated. (Please label as Exhibit B)
- Certificate(s) showing that all property taxes have been paid in full for all real property that abuts the right-of-way or easement sought to be vacated. (Please label as Exhibit C)
- n/a Notarized signatures of fee simple owners of record of all real property that abuts the right-of-way or easement sought to be vacated. (Please see adjacent property affidavit)
- A list containing the names, addresses, and signatures of all real property owners holding legal interest in the real property subject to, or affected by, the requested vacation.
- A printed list of the names of all current real property owners, STRAP numbers, and mailing addresses of property that is within a 500-foot radius of the right-of-way or easement sought to be vacated, including two (2) sets of mailing labels for the real property owners on this list.
- Signed letters of No Objection from:
 - Town of Fort Myers Beach Public Works Department
 - Florida Power and Light
 - The local cable television company serving the town
 - The local telephone company serving the town
 - The local liquid propane gas company serving the town

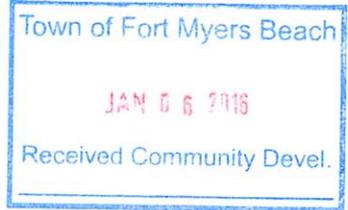
EXHIBIT D



- Lee County or other provider of sanitary sewer services
- Lee County Sheriff's Office
- Fort Myers Beach Fire Control District
- Any other provider of private or public utilities whose facilities or infrastructure may be affected by the vacation, as determined by the director

*** PLEASE NOTE: If any of the foregoing companies or agencies determines that the requested vacation may not be in the best interest of the public, the petitioner may offer an alternative or replacement right-of-way or easement. The affected company or agency shall not, however, be under any obligation to accept the offered alternative. Where a petitioner has offered to provide a replacement right-of-way or easement, town council shall not take action on the petition to vacate until the legal instrument(s) necessary to grant the alternative or replacement right-of-way or easement has been approved in form and content by the affected company or agency, properly executed by the granting or conveying property owner, and delivered to the town to be held in trust pending the town council's consideration of the requested vacation.

- A statement from the Lee County Community Development Director, or designee, whether vacation by Lee County is required.



Town of Fort Myers Beach

PETITION TO VACATE (Form A - F.S. Ch. 336)

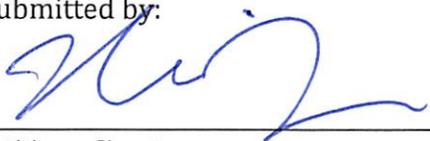
PROJECT NUMBER: VAC 16-0001 DATE: 1-6-2016

Petitioner(s), Judy A. Haataja, c/o Noel Davies, Roetzel & Andress requests the Town Council of the Town of Fort Myers Beach, Florida to grant this petition to Vacate and states as follows:

- Petitioner(s) Mailing Address: Judy A. Haataja, c/o Noel Davies, Roetzel & Andress, 2320 First St. #1000, Ft. Myers, FL 33901
- In accordance with Florida Statute (F.S.) Chapter 336, Petitioner desires to vacate the public's interest in the right-of-way or portion of right-of-way legally described in the attached *Exhibit A*.
- A sketch/site plan showing the area(s) the Petitioner desires to vacate is attached as *Exhibit B*.
- Petitioner provided notice to all affected property owners concerning the intent of this Petition.
- In accordance with the attached letters of no objection provided by the various governmental and utility entities, there is no apparent impediment to granting Petitioner's request.

Wherefore, Petitioner respectfully requests that the Town Council adopt a resolution granting the Petition to Vacate.

Submitted by:



Petitioner Signature

Noel Davies

Printed Name

12/28/15

Date

Petitioner Signature

Printed Name

Date

Petitioner Signature

Printed Name

Date

REGISTERED LAND SURVEYOR NO. 2239

R. L. SCHUMANN

10/23/14

R. L. Schumann

239-481-2366 239-481-2437 (FAX)

ALVA, FLORIDA 33920

21430 PALM BEACH BLVD.

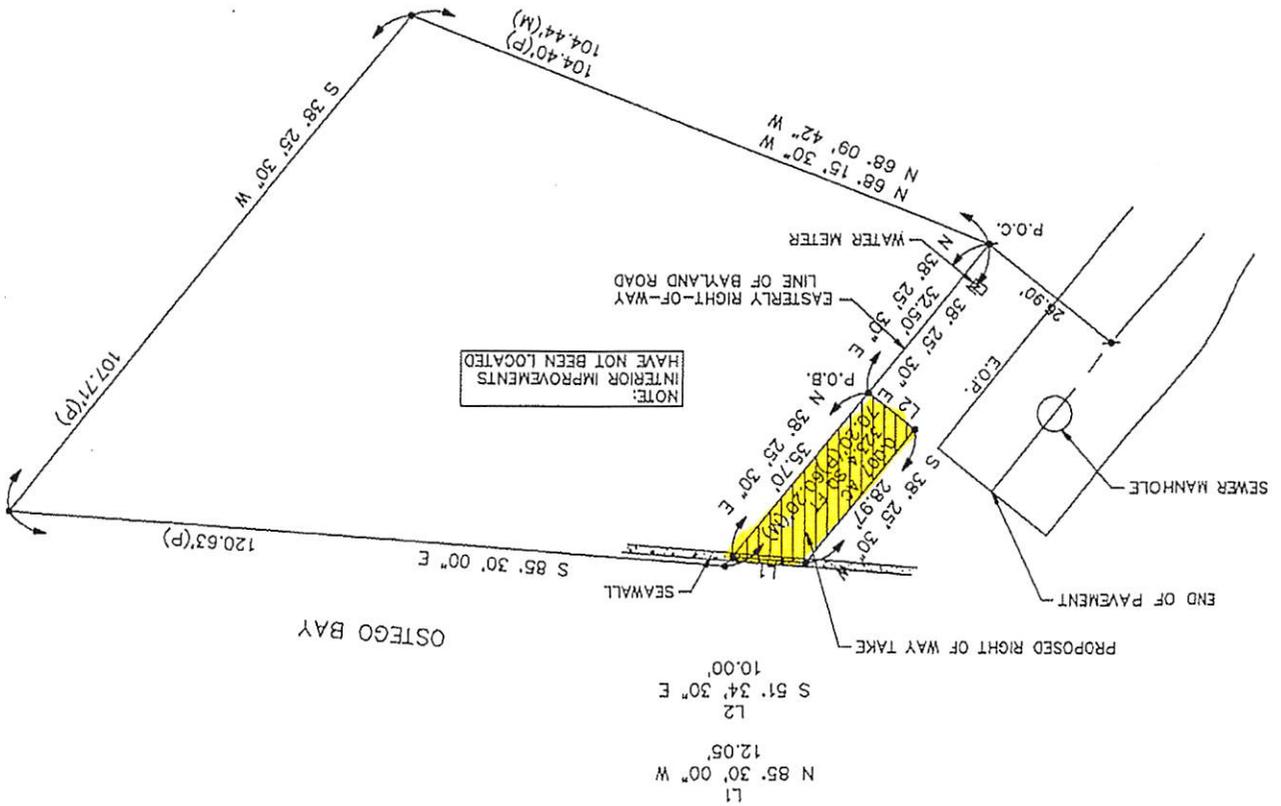
RLS 2239

d.b.a. S & H Land Surveying Co.

LIS LAND SURVEYING, LLC



SCALE: 1"=30'



SPECIFIC PURPOSE SURVEY

Received Community Devel.

JAN 8 2015

Town of Fort Myers Beach

R. L. SCHUMANN

R. L. Schumann
10/23/14

239-481-2366 239-481-2437 (FAX)

ALVA, FLORIDA 33920
21430 PALM BEACH BLVD.

PLS 2239
d.b.a. S & H Land Surveying Co.

LIS LAND SURVEYING, LLC

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1, BAYLAND HEIGHTS, A SUBDIVISION
ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 11, PAGE 48, OF THE PUBLIC
RECORDS OF LEE COUNTY, FLORIDA.
FROM SAID POINT OF COMMENCEMENT RUN NORTH 38° 25' 30" EAST FOR 32.50 FEET
ALONG THE EASTERLY RIGHT OF WAY OF BAYLANDS ROAD TO THE POINT OF BEGINNING
FROM SAID POINT OF BEGINNING CONTINUE NORTH 38° 25' 30" EAST FOR 35.70 FEET
PLUS OR MINUS TO THE CENTER OF AN EXISTING CONCRETE SEAWALL, THENCE RUN NORTH
85° 30' 00" WEST ALONG SAID SEAWALL FOR 12.05 FEET, THENCE RUN SOUTH 38° 25' 00"
WEST FOR 28.97 FEET, THENCE RUN SOUTH 51° 34' 30" EAST FOR 10.0 FEET TO THE POINT
OF BEGINNING.

LEGAL DESCRIPTION

Received Community Devel.

JAN 8 2018

Town of Fort Myers Beach

BAYLAND HEIGHTS

A SUBDIVISION OF PART OF GOV'T. LOTS 1 & 2 SEC. 28, T.46S.R.24E
ESTERO ISLAND LEE COUNTY, FLORIDA

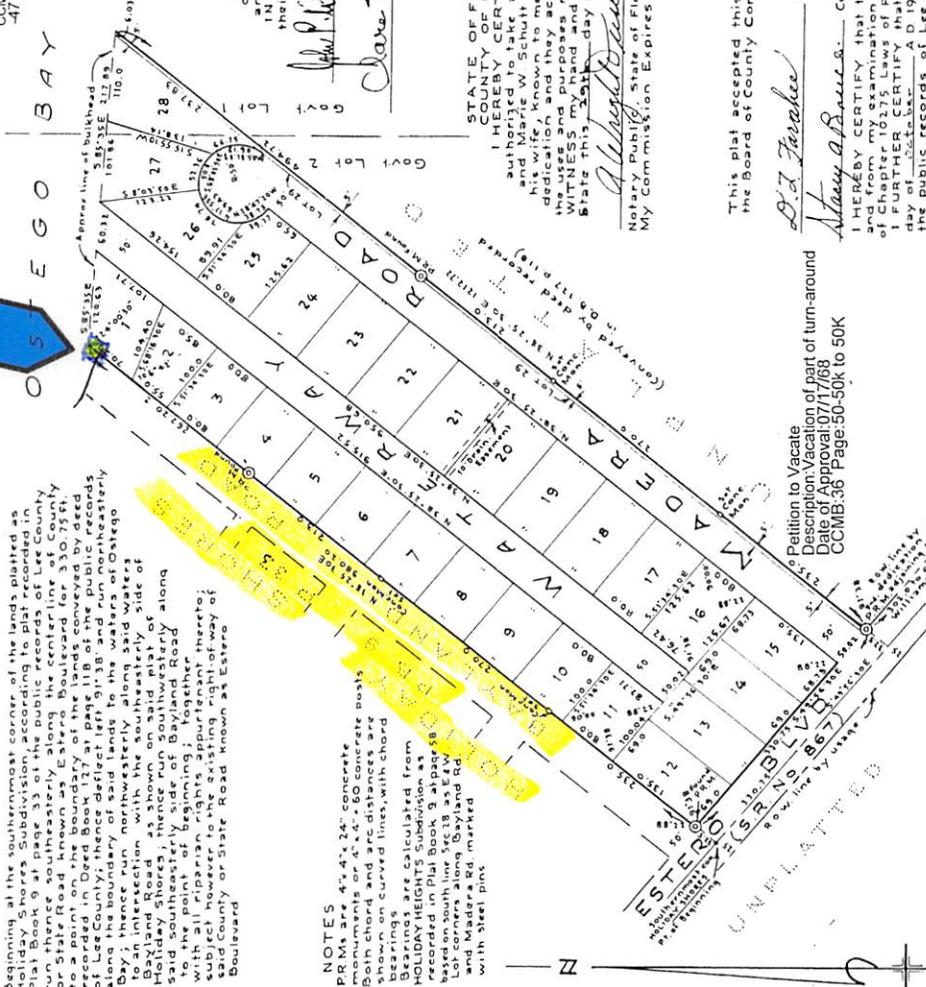
Scale 1 inch = 100 feet August 1958

DESCRIPTION

Beginning at the southernmost corner of the lands platted as Holiday Shores Subdivision, according to plat recorded in Plat Book 9 at page 33 of the public records of Lee County, Florida, and running thence north 89° 50' 00" west 330.00 feet to a point on the boundary of the lands conveyed by deed recorded in Deed Book 117 at page 118 of the public records of Lee County, Florida, and run northeasterly along the boundary of said lands to the intersection of said line with the line of the center of Bayland Road, as shown on said plat of Bayland Road, and thence southwesterly along said line to the point of beginning; together with all riparian rights appurtenant thereto; and that permanent reference monuments (P.R.M.s) have been set in accordance with the provisions of Section 71, Chapter 10275, Laws of Florida, Act of 1925 said County or State Road known as Estero Boulevard.

NOTES
 P.R.M.s are 4" x 4" x 24" concrete monuments or 4" x 4" x 60" concrete posts shown on plat and arc distances are shown on plat and arc distances are shown on plat with chord bearings.
 Bearings are calculated from HOLIDAY HEIGHTS Subdivision as based on Plat Book 3 at page 98 based on the center of Bayland Rd. Lot corners along Bayland Rd. and Madera Rd. marked with steel pins.

Petition to Vacate
 Description: Vacation of CUL-De-Sac
 CCMB: 36 Page 50-50K-52A



DEDICATION

KNOW ALL MEN BY THESE PRESENTS: that James B. Schutt and Marie W. Schutt his wife, together with the owners of the hereon described land, do hereby dedicate to the perpetual use of the public all roads in BAYLAND HEIGHTS hereon.

IN WITNESS WHEREOF, the said James B. Schutt and Marie W. Schutt have hereunto set their hands and seals this 23rd day of September, A.D. 1958.

James B. Schutt SEAL
Marie W. Schutt SEAL
Howard D. Karl SEAL
James M. Carl SEAL

Witness *John W. Taylor*
 Witness *James M. Carl*

ACKNOWLEDGEMENT

STATE OF FLORIDA
 COUNTY OF LEE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to administer oaths, personally appeared James B. Schutt and Marie W. Schutt his wife, together with the owners of the hereon described land, and who acknowledged to me that they executed the foregoing dedication and they acknowledged before me that they executed the same for the purposes and purposes mentioned.

WITNESSES and purposes mentioned.

I, Notary Public, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in my files and records.

Notary Public, State of Florida, at Largo
 My Commission Expires Feb. 5, 1960

Albert J. Farache

APPROVALS

This plat accepted this 30 day of Sept. A.D. 1958 in open meeting of the Board of County Commissioners of Lee County, Florida.

D. J. Farache Clerk
Henry A. Davis Co. Road Supervisor
W. J. ... Chairman
... Co. Attorney

Petition to Vacate
 Description: Vacation of part of turn-around
 Date of Approval: 07/11/68
 CCMB: 36 Page: 50-50K to 50K

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY that this plat of BAYLAND HEIGHTS is a true and correct representation of a recent survey made and platted under my direction, and that permanent reference monuments (P.R.M.s) have been set in accordance with the provisions of Section 71, Chapter 10275, Laws of Florida, Act of 1925

...
 Registered Land Surveyor
 Florida Certificate No. 351

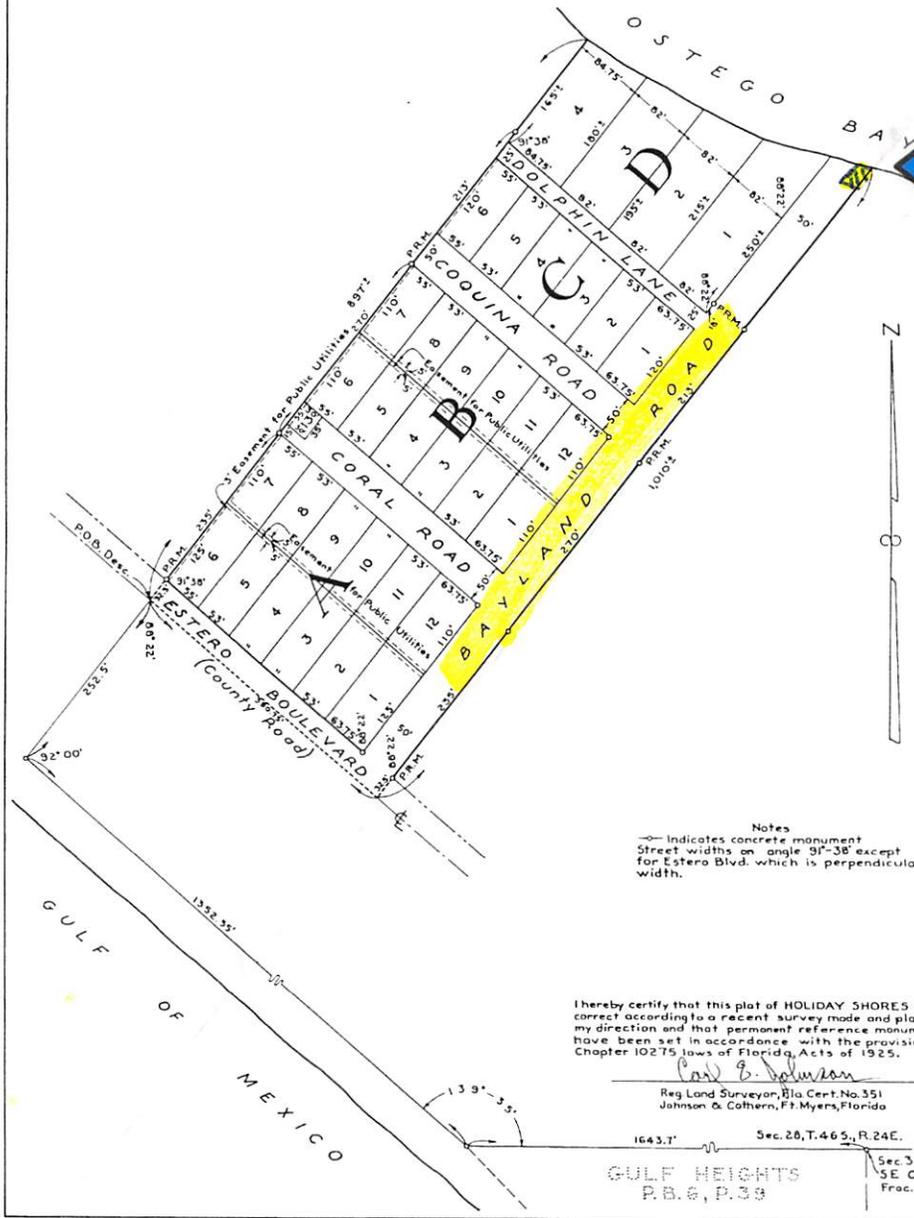
EXHIBIT D

Town of Fort Myers Beach
 JAN 06 2018
 Received Community Devel.

EXHIBIT
 B(1)
 ALL-STATE LEGAL

EXHIBIT D HOLIDAY SHORES

A SUBDIVISION IN
U. S. LOT 2, SECTION 28, T.46 S., R.24 E.
ESTERO ISLAND, LEE COUNTY, FLORIDA
Scale: 1"=100' July 1951



Notes
→ Indicates concrete monument
Street widths on angle 91°-38' except
for Estero Blvd. which is perpendicular
width.

I hereby certify that this plat of HOLIDAY SHORES is true and correct according to a recent survey made and plotted under my direction and that permanent reference monuments (P.R.M.'s) have been set in accordance with the provisions of Sec. 7, Chapter 10275, laws of Florida, Acts of 1925.

Carl B. Johnson
Reg. Land Surveyor, Fla. Cert. No. 351
Johnson & Cothran, Ft. Myers, Florida

1643.7' Sec. 28, T.46 S., R.24 E.
Sec. 33, T.46 S., R.24 E.
SE Cor.
Frac. SW 1/4 Sec. 28

GULF HEIGHTS
P.B. 8, P. 39

DESCRIPTION

A parcel of land in U.S. Lot 2, Section 28, T.46 S., R.24 E., on Estero Island described as follows:
From the southeast corner of the fractional southwest quarter of said Section 28 run west along the south boundary of said section for 1643.7 feet; thence run northwesterly, at a measured angle of 139°35' (139°39' in deed) east to north-west with said section line, for 1552.55 feet; thence run northwesterly at angle of 92°00' southeasterly to northeasterly with the last mentioned course, for 300.75 feet to the center line of the County Road or Estero Boulevard and the point of beginning.
From said point of beginning run northwesterly for 91°38' north to southeast from the last mentioned course and run southeasterly along the center line of Estero Boulevard for 300.75 feet; thence run east for 91°38' and run northwesterly for 1010 feet more or less to an intersection with a line extending northwesterly, at an angle of 91°38' southeast to northeast with Estero Boulevard; from the point of beginning; thence run southwesterly along said line for 897 feet more or less to the point of beginning.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS that Mildred F. Miller and her husband Guy R. Miller, the owners of the herein described lands have caused this plat of HOLIDAY SHORES to be made and do hereby dedicate to the perpetual use of the public all roads, streets, boulevard and/or lanes shown hereon.

IN WITNESS WHEREOF the owners have hereunto set their hands and seals upon this 10th day of July A.D. 1951.

WITNESS: *Carl B. Johnson* *Mildred F. Miller* SEAL
WITNESS: *Seavel Allen* *Guy R. Miller* SEAL

ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF LEE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to take acknowledgments, personally appeared Mildred F. Miller and her husband Guy R. Miller (as known to be the persons described in, and who executed the foregoing dedication and they acknowledged before me that they executed the same for the purposes and uses therein mentioned.

WITNESS my hand and official seal at Fort Myers, said County and State this 10th day of July A.D. 1951.

Seavel Allen
Notary Public, State of Florida at Large
My Commission expires Mar. 31, 1954.

APPROVALS

This plat accepted this 10th day of July 1951 in open meeting of the Board of County Commissioners of Lee County, Florida.

Approved: *Don Tarabe* Chairman
Don Tarabe Clerk

I HEREBY CERTIFY that this plat of HOLIDAY SHORES has been examined by me and from my examination I find that said plat complies in form with the requirements of Chapter 10275, laws of Florida, Acts of 1925.
I FURTHER CERTIFY that said plat was filed for record at 10:25 A.M. on the 10th day of July 1951 and duly recorded in Plat Book No. 9, at Public records of Lee County, Florida.

Don Tarabe
Clerk of the Circuit Court in and for Lee County

134598

Received Community Devel.

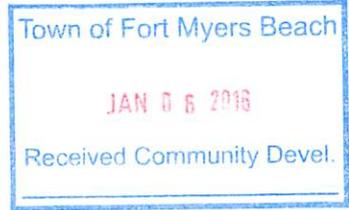
JAN 0 6 2016

Town of Fort Myers Beach

ALL-STATE LEGAL

EXHIBIT

B (2)



- View Cart
- Checkout
- Help

Real Property Information		New Search
Account	Tax Year	Status
28-46-24-W4-00400.0010	2014	PAID
Original Account	Book/Page	
28-46-24-W4-00400.0010	2000/493	
Owner		
HAATAJA JUDY A		
Physical Address	Mailing Address	
400 BAYLAND RD FORT MYERS BEACH FL 33931	400 BAYLAND RD FORT MYERS BEACH FL 33931 USA	
Legal Description		
BAYLAND HEIGHTS PB 11 PG 48 LOT 1		
Outstanding Balance as of 8/11/2015		\$0.00

Additional Options:

- eNotify
- Tax Detail
- Payments Made
- All Unpaid Taxes
- Tax History
- Link to Property Appraiser's Tax Estimator

- See also: [Property Appraiser](#) [Clerk of Court](#)



EXHIBIT D

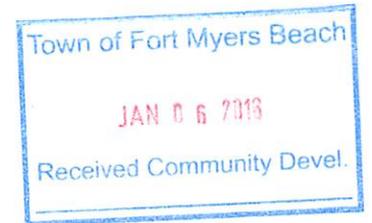


Florida Power & Light Company, 15834 Winkler Rd, Fort Myers, FL 33908
Phone: 239-415-1311, Fax: 239-415-1350

FEB 17 2015

February 6, 2015

Roetzel & Andress, LPA
2320 First St.
Suite 1000
Fort Myers, Fl. 33901



To whom it may concern:

This letter is in response to your request for a letter of no objection to vacate a portion of a right of way.

In meeting with your request, FPL has no objection to releasing our rights in the right of way.

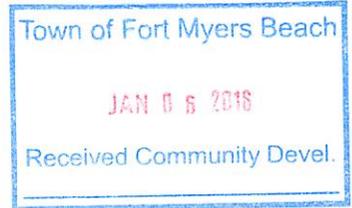
The release is restricted to the following description: the 12' strip of land near the end of Bayland Road in Section 28, Township 46, Range 24 part of Bayland Heights Subdivision. Address 400 Bayland Road Plat book 11 on Page 48, Strap No. 28-46-24-W4-00400-.001.

Should you have any questions or concerns, please do not hesitate to contact me at 415-1329

Sincerely,

A handwritten signature in black ink, appearing to be 'Juan Padron', written over a horizontal line.

Juan Padron
Technical Specialist



12600 Westlinks Drive
Fort Myers, FL 33913
Phone: 239-432-1805

January 12, 2015

Roetzel & Andress
C/O Noel Davics
2320 First Street Suite 1000
Fort Myers, Florida 33901-2904

RE: 400 Bayland Road (Strap# 28-46-24-W4-00400.0010)

Dear Noel Davics,

This letter will serve to inform you that Comcast has no objection to your proposed vacation of the address referenced above.

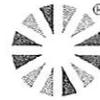
Should you require additional information or assistance, please feel free to contact me here at 432-1805.

Cordially,

A handwritten signature in black ink, appearing to read "Mark Cook".

Mark Cook
Project Coordinator

FEB 02 2015



CenturyLink®
Business

Town of Fort Myers Beach

JAN 06 2016

Received Community Devel.

January 20, 2015

ROETZEL & ANDRESS, LPA
2320 First Street
Suite 1000
Fort Myers, FL 33901

RE: Vacation of Right Way, Bayland Road, Fort Myers Beach, FL
Strap Number: 28-46-24-W4-00400.0010

Embarq Corporation, Inc. (d/b/a CenturyLink until further notice) has reviewed the documentation for the above referenced information. Based on the review of the plans, Centurylink has no objections to vacate the easement. Please call the appropriate Utilities Agency and Sunshine State One Call of Florida requirements to locate underground facilities before they start.

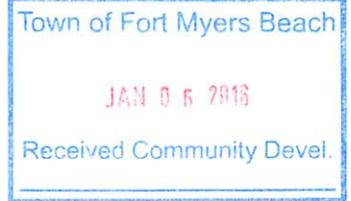
If you have any question or require additional information please give me a call at, 239-336-2039.

Sincerely,

Lou Rivera
Engineer

2820 Cargo Street
Fort Myers, FL 33916
Tel: 239.336.2039
Fax: 239.336.2026
www.centurylink.com

EXHIBIT D



June 26, 2015

Catherine Louise
Roetzel & Andress
2320 First Street, Suite 1000
Fort Myers, Florida 33901
Phone: (239) 338-4217
Phone: (239) 337-3850
Fax: (239) 337-0970
Email: clouise@ralaw.com

**RE: Request for Letter of No Objection
Petition to Vacate Right-of-Way
Bayland Road off of Estero Boulevard
Fort Myers Beach, Florida**

TECO Peoples Gas System has received and reviewed your request to Petition to Vacate the Right-Of-Way at the location referenced above.

TECO Peoples Gas System has no Natural Gas infrastructure within the Right-Of Way of **Bayland Road, Fort Myers Beach, Florida.**

TECO Peoples Gas System has "No Objection" to any purpose and/or intent to Petition to Vacate the Right-Of Way at the location mentioned above.

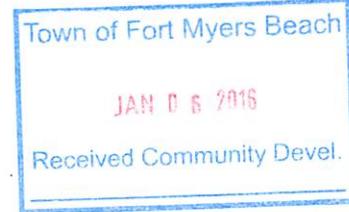
Should you have any questions or require further information, please contact me at telephone and cellular numbers (239) 690-5517, (239) 896-0812 or by e-mail at mdaloi@tecoenergy.com

Sincerely,

A handwritten signature in black ink, appearing to read "M. Aloï".

Marilyn D. Aloï
Engineering Project Manager

DEC 30 2014



John E. Manning
District One

December 29, 2014

(239) 533-8150

Cecil L. Pendergrass
District Two

Noel J. Davies
Roetzel & Andress, LPA
2320 First St, Suite 1000
Fort Myers, FL
33901

Larry Kiker
District Three

Brian Hamman
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
Hearing Examiner

SUBJECT: VACATION OF DRAINAGE AND/OR PUBLIC UTILITY EASEMENT
STRAP(S) #: 28-46-24-W4-00400.0010
ADDRESS(ES): 400 BAYLAND RD

Dear Mr. Davies,

Lee County Utilities has *no objection* to the proposed vacation of the right-of-way easement(s) as described in your recent letter and associated attachment.

If you should have any questions, or require further assistance, please do not hesitate to contact our office at (239) 533-8150.

Sincerely,



David Reycraft
Utilities Database Manager, MA, GISP
Utilities Engineering Division
Lee County Utilities

Original Mailed: 12/29/2014
Fax Sent: 12/29/2014
CC: Correspondence File

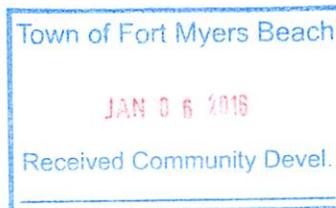
EXHIBIT D

Scott
of the Sheriff



State of Florida
County of Lee

December 30, 2014



Mr. Noel J. Davies
Roetzel & Andress
2320 First St. Suite 1000
Fort Myers, FL 33901

RE: Vacation of Right of Way, Bayland Road, Fort Myers Beach, FL

Dear Mr. Davies,

The Lee County Sheriff's Office has reviewed the vacation right of way request adjacent to 400 Bayland Road, Strap No. 28-46-24-W4-00400.0010.

Because the right of way does not abut Bayland Road, we do not object to the vacation of a 12-foot-wide right of way that begins at the end of Bayland Road and extends 28.97 feet and 35.7 feet, respectively, to Ostego Bay.

Yours truly,

Stan Nelson

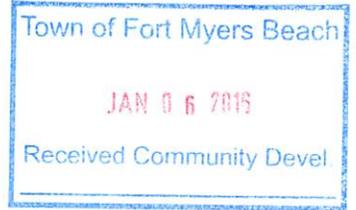
Stan Nelson
Planning and Research Director



EXHIBIT D

Louise, Catherine

From: Martin, Ronald <274@fmbfire.org>
Sent: Saturday, May 30, 2015 6:18 PM
To: Davies, Noel
Subject: RE: Bayland Road Right of Way 28-46-W\$-00400.0010



Follow Up Flag: Flag for follow up
Flag Status: Flagged

I have no objections at this time

From: Davies, Noel [<mailto:NDavies@ralaw.com>]
Sent: Thursday, May 28, 2015 1:27 PM
To: Martin, Ronald
Subject: RE: Bayland Road Right of Way 28-46-W\$-00400.0010

Mr. Martin,

The owner's intention is simply to conform with the Town's setback requirements as her lot is currently non-conforming. Please advise whether you have any objection.

Thank you.

Noel

Noel J. Davies, Esq.
ROETZEL
2320 First Street, Suite 1000
Ft. Myers, FL 33901
Direct Phone No.: 239.338.4211
Main Phone No.: 239.337.3850
Fax No.: 239.337.0970
Email: ndavies@ralaw.com
www.ralaw.com
Roetzel & Andress, A Legal Professional Association

Both Noel J. Davies and Roetzel & Andress intend that this message be used exclusively by the addressee(s). This message may contain information that is privileged, confidential and exempt from disclosure under applicable law. Unauthorized disclosure or use of this information is strictly prohibited. If you have received this communication in error, please permanently dispose of the original message and notify Noel J. Davies immediately at (239) 338-4211. Thank you.

From: Martin, Ronald [<mailto:274@fmbfire.org>]
Sent: Tuesday, February 03, 2015 2:23 PM
To: Davies, Noel
Subject: Bayland Road Right of Way 28-46-W\$-00400.0010
Importance: High

Good Afternoon Mr. Davies,

I am in receipt of your request for petition of vacating right of way interest, I have evaluated your drawings, and made a visit to the site. At this point, I do not have enough information to make an informed decision on this matter, in order

EXHIBIT D

to give you clear guidance, I need to have some insight in the owners intention for this section in question. If you clients could please authorize you to provide me some information as to their intention, that would be very helpful.

Thank you for your request, please contact me with further questions.

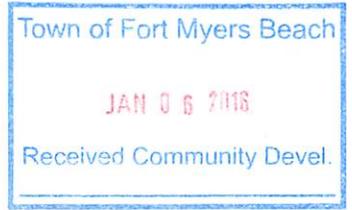
Ronald L. Martin-70

Captain-Fire Marshal

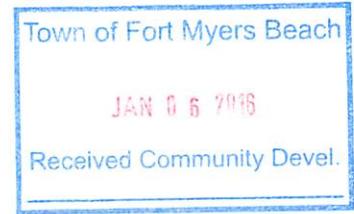
Fort Myers Beach Fire Control District

T-(239)590-4206

F-(239)432-1554



Lead me, Follow me, or get out of the way (General George Patton)



Writer's Direct Dial Number: (239) 533-8585

December 23, 2014

John E. Manning
District One

Cecil L. Pendergrass
District Two

Larry Kiker
District Three

Brian Hamman
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
Hearing Examiner

Noel J. Davies
Roetzel & Andress
2320 First Street, Suite 1000
Fort Myers, Florida 33901

RE: Vacation of Right-of-Way
Bayland Road, Fort Myers Beach

Dear Mr. Davies:

Your letter addressed to the Community Development Director regarding the above matter has been referred to me for response. In particular you have asked whether action by Lee County is required to vacate the public interest in a portion of Bayland Road in the vicinity of property identified by Strap No. 28-46-24-W4-00400.0010.

The provisions of Administrative Code AC-13-08 apply only to rights-of-way situated in Unincorporated Lee County. Since the portion of Bayland Road in question is wholly located within the Town of Fort Myers Beach, a Petition to seeking action of the Board of County Commissioners to vacate the public interest is not required. In anticipation that the Town of Fort Myers Beach may require letters of no objection from potentially affected parties, I have forwarded a copy of your inquiry to the Lee County Department of Transportation, Lee County Utilities and the Lee County Division of Natural Resources for review.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT
Development Services Division

Benjamin H. Dickson
Acting Director

cc: Howard Coachman, Lee County Department of Transportation
David Reycraft, Lee County Utilities
Phillip Gillogly, Lee County Division of Natural Resources

APR 22 2016

Received Community Devel.

2320 First Street
Suite 1000
Fort Myers, FL 33901
DIRECT DIAL 239.338.4211
PHONE 239.337.3850 FAX 239.337.0970
ndavies@ralaw.com

WWW.RALAW.COM

April 22, 2016

VIA EMAIL AND U.S. MAIL

Town of Fort Myers Beach
Community Development Department
2523 Estero Boulevard
Fort Myers Beach, Florida 33931
matt@fortmyersbeachfl.gov

Re: 400 Bayland Rd – VAC06-001

Dear Community Development Department:

Please allow this letter to timely respond to your letter dated February 23, 2016, regarding the above-referenced application.

Zoning Review, Matt Noble

Per LDC Section 10-219, please provide Title certificate or attorney's title opinion that the applicant (petitioner) owns fee simple title to the parcel of real property to which the vacation of the town-owned public interest in real property will inure as well as indicating what liens or assessments currently exist on the property.

Response: Attached please find the title opinion letter and ownership & encumbrance report.

Per LDC Section 10-219(b)(8) provide the affidavit and address the issues identified by this section of the code.

Response: Attached please find the Affidavit. This Affidavit has not yet been executed because, as the Town is aware, the design plans for future infrastructure on Bayland Road have not been finalized. Once finalized and provided that this vacation will not adversely affect such future infrastructure and is not in conflict with town, county, state, federal, or other governmental entities' plans regarding transportation, surface water management, utility, drainage, or other public purposes, Ms. Haataja will be able to execute the Affidavit.

LDC Section 10-219(b)(9) provides an opportunity to offer an alternative or replacement easement if the reviewing entity determines that the vacation may not serve the

April 22, 2016
Page 2

best interest of the public, however "the reviewing entity is under no obligation to accept the offered alternative".

If an application to vacate is premised on the grant of an alternative, or replacement easement, town council will not take action on the application until the instrument necessary to grant the alternative or replacement easement has been accepted in form and content by the town, properly executed by the granting or conveying entity, and delivered to the town to be held in trust pending the town council's consideration of the requested vacation.

Response: The Applicant is willing to offer an easement, pursuant to LDC Section 10-219(2)(i). The form and content of such easement is dependent upon the design plans for future infrastructure on Bayland Road, which have not yet been finalized. Once finalized, the Applicant will prepare the appropriate instrument and submit same to the Town.

We request you find the application sufficient to proceed, and reiterate our original request that because the vacation is *de minimis* in area, cost, and overall impact, that based on Section 10-220(e), the Town Council exempt the vacation from the public hearing process.

Respectfully submitted,

ROETZEL & ANDRESS, LPA



Noel J. Davies

NJD/cl
enclosures

Ownership and Encumbrances Report

Attorneys' Title Fund Services, LLC.
6545 Corporate Centre Boulevard
Orlando, Florida 32822
800-432-9594

Fund File Number: 18-2014-002999

Provided For: Roetzel & Andress LPA

Agent's File Reference: 130141.0001

Effective Dates: From May 31, 2012 at 9:47 AM

To August 27, 2014 at 11:00 PM

This title search commences from the date of the last outstanding institutional first mortgage on the property. If there is no outstanding mortgage, the search commences with the date record title vested in the current record owner.

Description of Real Property Situated in Lee County, Florida.

Lot 1, Bayland Heights, according to the map or plat thereof as recorded in Plat Book 11, Page 48, Public Records of Lee County, Florida.

Apparent Title Vested in:

Judy A. Haataja *By:* Warranty Deeds and Quit Claim Deed

Recorded in: O.R. Book 489, Page 449, O.R. Book 731, Page 80, O.R. Book 731, Page 182 and O.R. Book 2000, Page 493, Public Records of Lee County, Florida.

This search does not cover matters other than those recorded in the Official Records Book of the county and does not assure the legality or validity of the referenced instruments.

Ad Valorem tax information is not provided.

Prepared this: 9th day of September, 2014

Prepared by: Teresa McConnell

Phone Number: 1-800-526-3855

Attorneys' Title Fund Services, LLC



*By: Jimmy R. Jones
President*

Ownership and Encumbrances Report

Attorneys' Title Fund Services, LLC.

6545 Corporate Centre Boulevard

Orlando, Florida 32822

800-432-9594

Fund File Number: 18-2014-002999

ENCUMBRANCES

1. Mortgage to Mortgage Electronic Registration Systems, Inc., as nominee for Florida Gulf Bank, mortgagee(s), recorded under Instrument Number 2012119948, Public Records of Lee County, Florida.

A 20-year name search has been performed on parties acquiring an interest within the time period covered by this search.

This Title Search is prepared and furnished for information only. It is not an opinion of title and may not be used as a title base for the issuance of a title insurance commitment and/or policy, nor should it be used for the preparation of foreclosure proceedings or other litigation. Maximum liability for incorrect information is \$1000 under Sec. 627.7843, F.S.

482592

489 PAGE 449

This instrument prepared by
GEOERGE F. HOLDCRAFT, JR.
MOSELEY TITLE AND ABSTRACT COMPANY
1802 Broadway Fort Myers, Fla. 33901
In connection with the issuance of title insurance

482592

WARRANTY DEED (from Corporation) Mosley Title & Abstract Co., 1802 Broadway, Ft. Myers, Florida 32676

This Indenture, Made this 11th day of October A. D. 19 68

between BAYLAND HEIGHTS DEVELOPMENT CO., a corporation existing under the laws of the State of Florida having its principal place of business in the County of Lee and State of Florida party of the first part. and GERALD C. HAATAJA and JUDY A. HAATAJA, his wife, whose P. O. address is P. O. BOX 2693, Fort Myers Beach, Florida 33931 of the County of Lee and State of Florida

parties of the second part, WITNESSETH that the said party of the first part, for and in consideration of the sum of \$10 00 & 00/100.

to it in hand paid the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, remised, released, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, remise, release, convey and confirm, unto the said parties of the second part, and their heirs, and assigns forever, all that certain parcel of land lying and being in the County of Lee and State of Florida more particularly described as follows:

Lot 1, BAYLAND HEIGHTS SUBDIVISION, as recorded in Plat Book 11, Page 48, Public Records of Lee County, Florida. SUBJECT to easements and restrictions of record.

STATE OF FLORIDA
DOCUMENTS CONTROL
RECORDS SECTION
3750
A18800
331

STATE OF FLORIDA
DOCUMENTARY TAX
\$3.55
\$1.10
\$1.10
\$1.10
OFFICIAL
NOTARY PUBLIC
FLORIDA
EXPIRES
Oct 14 4 14 PM '68
D. I. FARABEE
CLERK OF CIRCUIT COURT
BY *[Signature]* D. C.

TOGETHER with all the covenants, conditions and appurtenances, with every privilege, right, title, interest and estate, reversion, remainder and excess thereto belonging or in anywise appearing: TO HAVE AND TO HOLD the same in fee simple forever. And the said party of the first part does covenant with the said parties of the second part that it is lawfully seized of the said premises; that they are free of all encumbrances, and that it has good right and lawful authority to sell the same; and the said party of the first part does hereby fully warrant the title to said land and will defend the same against the lawful claims of all persons whomsoever.

WITNESS THE SIGNATURE AND SEAL of said corporation, by its officer(s) thereunto authorized.
BAYLAND HEIGHTS DEVELOPMENT CO

(Copies
Seal)
Marie W. Schutt, Sec'y
Marie W. Schutt, Secretary
Signed, Sealed and Delivered in Our Presence
by *James B. Schutt*
James B. Schutt, Vice-President

State of FLORIDA
County of LEE
I HEREBY CERTIFY, that on this 11th day of October A. D. 19 68 before me personally appeared James B. Schutt, and Marie W. Schutt, respectively Vice-President and Secretary of Bayland Heights Development Co., a corporation under the laws of the State of Florida, to me known to be the persons described in and who executed the foregoing conveyance to Gerald C. Haataja and Judy A. Haataja, his wife,

and severally acknowledged the execution thereof to be their free act and deed as such officers, for the uses and purposes therein mentioned; and that they affixed thereto the official seal of said corporation, and the said instrument is the get paid deed of said corporation.

WITNESS my signature and official seal at Fort Myers Beach in the County of Lee and State of Florida, the day and year aforesaid.

My commission expires 19
Notary Public,
[Signature]
Notary Public,
ADJUTANT GENERAL
BY *[Signature]*
DODD'S FOREIGN PASS W. DISTRIBUTION

315 RW-2

616110

REC. 731 PAGE 80

EXECUTOR'S DEED

THIS INDENTURE made and entered into on the 27 day of September, 1971, by and between THE FIRST NATIONAL BANK IN FORT MYERS, a corporation organized and existing under the National Banking Laws of the United States of America, and having its principal place of business at Fort Myers, Lee County, Florida, as Executor of the Estate of HOWARD W. GARL, deceased, Party of the First Part, and GERALD C. HAATAJA and JUDY A. HAATAJA, husband and wife, as an estate by the entirety, whose correct mailing address is P. O. Box 2693, Fort Myers, Beach, Florida 33931, Party of the Second Part,

WITNESSETH:

The Party of the First Part, in consideration of the premises and the sum of TEN and no/100 DOLLARS and other good and valuable consideration in hand paid, grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Party of the Second Part, their heirs and assigns forever, the real property in the County of Lee and State of Florida, described as follows, to-wit:

Lot numbered One (1) of that certain subdivision known as BAYLAND HEIGHTS, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court, Lee County, Florida in Plat Book 11, Page 48.

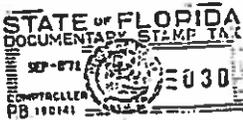
Subject to existing easements, restrictions, reservations of record and taxes for the calendar year 1971 and subsequent years.

TOGETHER with all and singular the tenements, hereditaments and appurtenances belonging or in anywise appertaining to that real property.

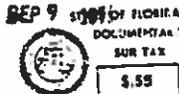
TO HAVE AND TO HOLD the same to the Party of the Second part, their heirs and assigns, in fee simple forever.

*P.O. Box 2610
Fort Myers Beach, Fla.
33931*

LEE COUNTY



This Instrument Was Prepared By:
KJELL PEDERSEN, Attorney
P. O. Box 2566
Fort Myers Beach, Florida



315 11/72

OPT. REC. 731 PAGE 81

AND the Party of the First Part does covenant to and with the Party of the Second Part, their heirs and assigns, that in all things preliminary to and in and about this conveyance, the laws of the State of Florida have been followed and complied with in all respects.

IN WITNESS WHEREOF, the Party of the First Part, as Executor of the Estate of Howard W. Garl, deceased, has set its hand and seal the day and year first above written.

THE FIRST NATIONAL BANK IN FORT MYERS

By: Glenn O. Cary
Glenn O. Cary, Vice President and Trust Officer

Signed, sealed and delivered in the presence of:

W. Earl Johnson
Leslie L. Thomas

STATE OF FLORIDA)
) SS:
COUNTY OF LEE)

I HEREBY CERTIFY that on this 27th day of September, 1971, before me came GLENN O. CARY, Vice President and Trust Officer of THE FIRST NATIONAL BANK IN FORT MYERS, the Executor of the last will and testament of HOWARD W. GARL, deceased, and known to me to be the person described in and who executed the within instrument and acknowledged that he executed the same as such Executor.

WITNESS my hand and official seal on the day and year last above written at Fort Myers, Lee County, Florida.

Leslie L. Thomas
Notary Public, State of Florida,
at Large

My Commission Expires:

Leslie L. Thomas
My commission expires May 10, 1978

RECORDED IN OFFICIAL RECORDS
LEE COUNTY, FLORIDA
PER [unclear]

SEP 8 3 55 PM '71
D.T. FARABEE
CLERK CIRCUIT COURT
BY [Signature]



315 RV-2

REC: 731 182 616460
WARRANTY DEED -- Moseley Title & Abstract Co., 1607 Broadway, Fort Myers, Florida 33901

This Indenture, Made this 3rd day of September A. D. 1971
between JAMES B. SCHUTT and MARIE W. SCHUTT, his wife,

part 1es of the first part and GERALD C. HAATAJA and JUDY A. HAATAJA,
his wife,
whose address is 160 Hibiscus, Fort Myers Beach, FL 33931
part 1es of the second part.

Witnesseth, That the said part 1es of the first part, for and in consideration of the
sum of \$10.00 & O.G.V.C.

to them in hand paid by the said parties of the second part the receipt where of is hereby acknowl-
edged do by these presents Grant, Bargain, Sell, Remise, Release and Convey unto the said part 1es
of the second part, and to their heirs and assigns, forever, all the following
described land situated in the County of Lee, State of Florida and known and described as follows, to wit:

Lot 1, BAYLAND HEIGHTS SUBDIVISION, as recorded in Plat Book 11,
Page 48. Public Records of Lee County, Florida.

SUBJECT to easements and restrictions of record.

This instrument prepared by
Moseley Title & Abstract Company
1607 Broadway, Fort Myers, Florida 33901
In compliance with the provisions of the Florida Statutes

SEP 9 1971
STATE OF FLORIDA
DOCUMENTARY
STAMP TAX
\$55

STATE OF FLORIDA
DOCUMENTARY STAMP TAX
SEP-871
030



RECORDED IN OFFICIAL
RECORDS
LEE COUNTY, FLORIDA
RECORD V# 1812
SEP 8 4 30 PM '71
D. J. FARABE
CLERK, CIRCUIT COURT
3rd Floor, Court Bldg.
Tallahassee, Fla.

To Have and to Hold the Same, together with all the hereditaments and appurtenances
thereto belonging or in anywise appertaining, to the said part 1es of the second part, their heirs and
assigns forever, and the said parties of the first part do hereby fully warrant the title to said
land and will defend the same against the lawful claim of all persons whomsoever.
Part 1es of the second part assume the payment of taxes for the year 1971 and subsequent years.

In Witness Whereof, The said part 1es of the first part have hereunto set their
hands and seals the day and year above written.
Signed, sealed and delivered in the presence of

James B. Schutt (SEAL)
James B. Schutt (SEAL)
Marie W. Schutt (SEAL)
Marie W. Schutt (SEAL)
State of FLORIDA County of LEE

I Hereby Certify, That on this day personally appeared before me, an officer duly authorized to ad-
minister oaths and take acknowledgments

James B. Schutt and Marie W. Schutt, his wife,
to me well known to be the persons described in and who executed the foregoing instrument and acknowl-
edged before me that they executed the same freely and voluntarily for the purposes therein expressed.
WITNESS my hand and official seal this 3rd day of September A. D. 1971

Joseph J. Haddock
Notary Public

My Commission expires Nov. 25, 1972

315 87-2

This Indenture

2480664

Whereof said Article, the term "party" shall include the heirs, personal representatives, successors and assigns of the respective parties hereto, the use of the singular number shall include the plural and the plural the singular, the use of any gender shall include all genders and the term "man" shall include all the sexes herein described if more than one.

Made this 27th day of June A. D. 1988

Between

GERALD C. HAATAJA and JUDY A. HAATAJA,
731 San Carlos Blvd., Fort Myers Beach,

of the County of
party of the first part.

Lee and State of Florida

and
JUDY A. HAATAJA, an unmarried woman,
P. O. Box 2610, Fort Myers Beach, Florida 33901

of the County of
party of the second part.

Lee and State of Florida

Witnesseth, that the said party of the first part, for and in consideration of the sum of \$10.00 and O.V.C. Dollars, in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has remised, released and quitclaimed, and by these presents does remise, release and quitclaim unto the said party of the second part all the right, title, interest claim and demand which the said party of the first part has in and to the following described lot, piece or parcel of land, situate lying and being in the County of Lee State of Florida, to wit:

Lot 1, BAYLAND HEIGHTS SUBDIVISION, as recorded in Plat Book 11, Page 48, Public Records of Lee County, Florida.

SUBJECT TO easements and restrictions of record.

Documentary Tax: \$.55
\$ _____
CHARLES OWEN OWEN, JR. COUNTY
By L. Bates Deputy Clerk

NO TITLE EXAMINATION

To Have and to Hold the same, together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest and claim whatsoever of the said party of the first part, either in law or equity, to the only proper use, benefit and behoof of the said party of the second part.

In Witness Whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed, Sealed and Delivered in Our Presence:

Witness
Witness
Witness
Witness

Gerald C. Haataja L.S.
GERALD C. HAATAJA
Judy A. Haataja L.S.
JUDY A. HAATAJA
L.S.

State of Florida

County of Lee

I Hereby Certify That on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments,

GERALD C. HAATAJA, an unmarried man to me well known to be the person described in and who executed the foregoing instrument and he acknowledged before me that he executed the same freely and voluntarily for the purposes therein expressed.

Witness my hand and official seal at _____ County of _____ and State of Florida, this _____ day of _____ A. D. 1988.



Charles Owen Owen, Jr.
Notary Public
My Commission Expires 12/2/1991

THIS INSTRUMENT PREPARED BY
Alan J. Rubinstein, ATTORNEY
1818 BROADWAY, FORT MYERS, FLORIDA 33901

OR2000
P60493

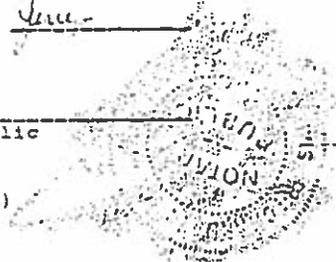
STATE OF FLORIDA)

COUNTY OF LEE)

BEFORE ME, the undersigned authority, personally appeared JUDY A. HAATAJA, to me well known to be the person described in and who executed the foregoing instrument and she acknowledged before me that she executed the same freely and voluntarily for the purposes therein expressed.

19 88 WITNESS my hand and seal this 27 day of June, at Fort Myers Beach, Lee County, Florida.

[Signature]
Notary Public



My commission expires:

1-19-90

(seal)

RECORDED & RECORD VENDOR
KIMBLE & ASSOCIATES
CLERK CIRCUIT COURT
LEE COUNTY FLORIDA
JUN 30 11 19 AM '88

1302.00
744.00
1302.00

(a) FLAGSTAR BANK
5151 CORPORATE DRIVE
TROY, MI 48098
FINAL DOCUMENTS, MAIL STOP W-531-1

This instrument was prepared by:
WILLIAM SHENKO, JR. PA
-
1661 ESTERO BLVD
FORT MYERS BEACH, FL 33931

V4 WBCD LOAN # 503521923

[Space Above This Line for Recording Data]

MORTGAGE

MIN 100052550352192362

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated MAY 23, 2012, together with all Riders to this document.
(B) "Borrower" is Judy A. Haataja, a single woman.

Borrower is the mortgagor under this Security Instrument.

(C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the mortgagee under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.
(D) "Lender" is FLORIDA GULF BANK.

Lender is a STATE CHARTERED BANK, organized and existing under the laws of FLORIDA. Lender's address is 812 DEL PRADO BLVD, CAPE CORAL, FL 33990.

(E) "Note" means the promissory note signed by Borrower and dated MAY 23, 2012. The Note states that Borrower owes Lender *****THREE HUNDRED SEVENTY TWO THOUSAND AND NO/100 ***** Dollars (U.S. \$372,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than JUNE 1, 2027.

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."
(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

Initials: 
PLEGDEED 1102
05-22-2012 9:32

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(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- Adjustable Rate Rider
- Balloon Rider
- 1-4 Family Rider
- V.A. Rider
- Condominium Rider
- Planned Unit Development Rider
- Biweekly Payment Rider
- Second Home Rider
- Other(s) [specify]

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor In Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS, the following described property located in the COUNTY (Type of Recording Jurisdiction) of Lee

(Name of Recording Jurisdiction):

Lot 1, BAYLAND HEIGHTS SUBDIVISION, as recorded in Plat Book 11, Page 48, Public Records of Lee County, Florida.

Tax ID #: 28-46-24-W4-00400.0010

which currently has the address of 400 Bayland Rd, Fort Myers Beach,

[Street] [City]

Florida 33931 ("Property Address"): [Zip Code]

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

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BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentally, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. **Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. **Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attach priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

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The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. **Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law

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requires interest to be paid on such insurance proceeds. Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. **Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. **Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. **Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. **Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. Borrower shall not surrender the leasehold estate and interests herein conveyed or terminate or cancel the ground lease. Borrower shall not, without the express written consent of Lender, alter or amend the ground lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. **Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased.

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to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security

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Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument, (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit, and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

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If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. **Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity, or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. **Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. **Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. **Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration

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of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

23. Release. Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. Attorneys' Fees. As used in this Security Instrument and the Note, attorneys' fees shall include those awarded by an appellate court and any attorneys' fees incurred in a bankruptcy proceeding.

25. Jury Trial Waiver. The Borrower hereby waives any right to a trial by jury in any action, proceeding, claim, or counterclaim, whether in contract or tort, at law or in equity, arising out of or in any way related to this Security Instrument or the Note.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it

Signed, sealed and delivered in the presence of:

 (Seal)
JUDY A. HAATAJA

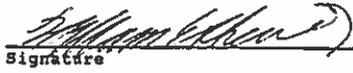
State of FLORIDA

County of LEE

The foregoing instrument was acknowledged before me this 23 day of

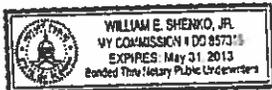
May 2012 by 2008th Judy A. Haataja

who is personally known to me or who has produced _____
as identification.


Signature

Title or Rank

Serial Number, (if any)



VAC16-0001
400 BAYLAND RD

AFFIDAVIT OF JUDY A. HAATAJA

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, personally appeared Judy A. Haataja, who being first duly sworn, deposes and says:

The vacation request for the town-owned public interest in real property:

1. Is not for the purpose of unlawfully obtaining public property for private purposes;
2. Will not adversely affect the ownership rights or convenient access of persons owning other real property; and
3. Will not adversely affect future infrastructure and is not in conflict with town, county, state, federal, or other governmental entities' plans regarding transportation, surface water management, utility, drainage, or other public purposes.

FURTHER AFFIANT SAYETH NOT.

Judy A. Haataja

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Judy A. Haataja, who is () personally known to me, or () who has produced _____ as identification.

Notary Public
My Commission Expires:



2320 First Street
Suite 1000
Fort Myers, FL 33901
DIRECT DIAL 239.338.4211
PHONE 239.337.3850 FAX 239.337.0970
ndavies@ralaw.com

WWW.RALAW.COM

April 22, 2016

VIA EMAIL AND U.S. MAIL

Department of Community Development
Town of Fort Myers Beach
2523 Estero Boulevard
Fort Myers Beach, FL 33932
matt@fortmyersbeachfl.gov

RE: Petition to Vacate Town Interest in Real Property
Vacation of Easement on Bayland Road

Dear Community Development Department:

This firm represents Judy A. Haataja in an application to vacate ("Application") filed pursuant to Subdivision II., Vacation of Town Interest in Real Property, Section 10-218, et al. of the Town of Fort Myers Beach Land Development Code ("LDC"). Pursuant to Section 10-219(b)(1), LDC we have enclosed with this letter title documentation indicating that the Applicant owns fee simple title to Lot 1 of Bayland Heights subdivision. The portion of platted roadway Applicant seeks to vacate is located on the northeast end of Bayland Road, adjacent to Lot 1. A legal description and survey is attached hereto as **Exhibit "A"**. The road is platted on the adjacent plat of Holiday Shores, and dedicated to the perpetual use of the public.¹ A copy of the Holiday Shores plat is attached hereto as **Exhibit "B"**. A copy of the Bayland Heights plat is attached hereto as **Exhibit "C"**.

The Applicant is an abutting property owner of the subject roadway. Pursuant to Section 177.085(1), Florida Statutes, the reversionary interest in abutting owners to a roadway continues to the centerline of such roadway. Notwithstanding that Bayland Road, while identified on the Bayland Heights plat, is outside the Applicant's plat, Florida law still provides for ownership to the centerline.

In *Calvert v. Morgan*, 436 So. 2d 314 (1st DCA 1983), the First District Court of Appeal applied the long-standing rule set forth in *Smith v. Horn*, 70 Fla. 484, 70 So. 435 (1915), holding that the appropriate boundary between two sets of abutting property owners was the center line of the right of way. *Id.* at 315-16. In *Calvert*, all of the land in question was at one time owned by a common grantor. *Id.* at 315. Subsequently, the land was platted into two separate

¹ There is no reversionary clause in the dedication.

EXHIBIT E

Department of Community Development
April 22, 2016
Page 2

subdivisions, and the first plat contained the roadway. *Id.* The fact that the right of way was included on defendants' plat was not determinative. *Id.* The court rejected the defendants' claim to the entire roadway, and held that each abutting property owner owned to the center line of the right of way. *Id.* at 316.

This Application fits squarely within the facts of *Calvert*. As in *Calvert*, all of the land in question was at one time owned by a common grantor. Subsequently, the land was platted into two separate subdivisions (Holiday Shores and Bayland Heights) with the right of way (Bayland Road) being platted on the first plat (Holiday Shores) and dedicated to the public. Accordingly, upon vacation of the town-owned public interest in the Subject Easement, the Applicant owns fee simple title to the center line of Bayland Road.

After your review of this Application, we request a finding that the Application is consistent with the Town's Comprehensive Plan, that the Application qualifies as a de minimis application and therefore is exempt from complying with Section 10-220(c) and (d), LDC. The Application may be properly resolved by a single public hearing before Town Council.

Please advertise and schedule the Application for public hearing.

Very truly yours,

ROETZEL & ANDRESS, LPA



Noel J. Davies

NJD
Enclosures

LEGAL DESCRIPTION

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1, BAYLAND HEIGHTS, A SUBDIVISION ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 11, PAGE 48, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.
FROM SAID POINT OF COMMENCEMENT RUN NORTH 38° 25' 30" EAST FOR 32.50 FEET ALONG THE EASTERLY RIGHT OF WAY OF BAYLANDS ROAD TO THE POINT OF BEGINNING FROM SAID POINT OF BEGINNING CONTINUE NORTH 38° 25' 30" EAST FOR 35.70 FEET PLUS OR MINUS TO THE CENTER OF AN EXISTING CONCRETE SEAWALL, THENCE RUN NORTH 85° 30' 00" WEST ALONG SAID SEAWALL FOR 12.05 FEET, THENCE RUN SOUTH 38° 25' 00" WEST FOR 28.97 FEET, THENCE RUN SOUTH 51° 34' 30" EAST FOR 10.0 FEET TO THE POINT OF BEGINNING.

LIS LAND SURVEYING, LLC

d.b.a. S & H Land Surveying Co.

RLS 2239

21430 PALM BEACH BLVD.

ALVA, FLORIDA 33920

239-481-2366 239-481-2437 (FAX)



10/23/14

R. L. SCHUMANN

REGISTERED LAND SURVEYOR NO. 2239

JOB NO: 10513

PAGE 2 OF 2

