

irreconcilable conflict between this Declaration or the By-Laws of the Association and the Articles of Incorporation of the Association, the provisions of the Articles of the Incorporation shall control.

ARTICLE XI.

RIGHTS OF FIRST MORTGAGEES

The following provisions, in additions to provisions set forth elsewhere in this Declaration, shall be applicable to the holders of first mortgages upon the individual dwellings subject to this Declaration and any amendments thereto.

Section 1. This Declaration and other constituent documents create a planned subdivision.

Section 2. Any first mortgagee who obtains title to a residence pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such unit's unpaid dues or charges which accrue prior to the acquisition of title to such unit by the mortgagee.

Section 3. Unless at least two-thirds (2/3) of the first mortgagees, provided they request the right and inform the Association of their addresses in writing (based upon one vote for each first mortgage owned) or Owners (other than the sponsor, developer or builder) of the individual Lots have given their prior written approval, the homeowners association, corporation or trust shall not be entitled to:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common property owned, directly or indirectly, by such homeowners association, corporation or trust for the benefit of the Lots (the granting of easements for public utilities or for other public purposes consistent with the intended use of such

