

DECLARATION OF RESTRICTIVE COVENANTS
CONDITIONS, DEDICATION AND
AGREEMENT ON CHANNEL OWNERSHIP AND MAINTENANCE
BAY HARBOR UNIT NO. 1

THE STATE OF TEXAS
COUNTY OF NUECES

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, Coastal Properties, Inc., hereinafter called the Declarant, is the owner of all that certain real property located in Nueces County, Texas, described as follows:

Lots 1 through 28, Bay Harbor Unit 1, as shown by a replat of subdivision of the City of Aransas Pass, Texas, as filed of record at Vol. 47, Pages 201 & 202, in the Plat Records of Nueces County, Texas; (Prior to the date hereof, the street shown on said plat as Sea Mist Drive has been by the City of Aransas Pass closed and abandoned by ordinance dated the 3rd day of January, 1983; and the said Sea Mist Drive has been created as a private right-of-way easement executed by Coastal Properties, Inc., dated the 9th day of February, 1983, and recorded in Vol. _____, Pages _____, Deed Records of Nueces County, Texas.);

WHEREAS, the Declarant may hereafter from time to time convey the above described properties, and desires to bind Declarant to make any such conveyance subject to certain protective covenants, conditions, restrictions, liens, and charges as hereinafter set forth:

NOW, THEREFORE, it is hereby declared that all of the property described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and shall be binding on all parties having any right, title, or interest in or to the above described property or any part thereof, and their heirs, successors, and assigns, and which easements, restrictions, covenants, and conditions shall inure to the benefit of each owner thereof

This Declaration and these Restrictions, Covenants and Conditions do not and shall not apply to Lots 1, 2, 3, 27 and 28 of said subdivision; and as to such Lots Declarant reserves the right to declare different use restrictions, covenants and conditions, including use for General Business and Multi Family dwellings.

ARTICLE ONE

DEFINITIONS

Owner

1.01. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or portion of a Lot on which there is or will be built a detached single family dwelling, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

PROPERTIES

1.02. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

LOT

1.03. Except as to Lots 1,2,3,27 and 28, "Lot" shall mean and refer to that portion of any of the plots of land identified as Lots 1 through 28 shown upon the replat and subdivision map recorded in Volume 47 at Pages 201 & 202 of the Plat Records of Nueces County, Texas, on which there is or will be built a single family dwelling.

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The term "Lot" shall not include the Common Area nor any other reserves shown on the said replat.

DECLARANT

1.04. "Declarant" shall mean and refer to Coastal Properties, Inc., Its successors and assigns.

ARTICLE TWO

ARCHITECTURAL CONTROL

Architectural Control Committee

2.01. Declarant shall designate and appoint an Architectural Control Committee consisting of not less than three (3) qualified persons, which committee shall serve at the pleasure of the Declarant, and none of whom are required to be residents of Bay Harbor Unit 1. Upon the resignation, death or inability of a committee member to serve on the Architectural Control Committee, the Declarant shall have the power to appoint a successor.

The initial committee is:

Chairman Jack Rice Turner

Secretary George Strickhausen, III

Members Mrs. William Hoskins

Approval of Plans and Specifications

2.02. No building, fence, wall, bulkhead, slip or other structure shall be commenced, erected, or maintained upon the properties, nor shall any exterior addition to, or change or alteration therein, be made until the plans and specifications showing the nature, kind, structure, shape, height, color, materials, and location of the same shall have been submitted to, and approved in writing by, the Architectural Control Committee as to harmony of external design, appearance and location in relation to surrounding structures and topography. The Architectural Control Committee may approve, in whole or in part, or may reject, in whole or in part, in its sole judgment.

Failure of Committee to Act

2.03. In the event that any plans and specifications are submitted to the Architectural Control Committee as provided herein, and such Architectural Control Committee shall fail either to approve or reject such plans and specifications for a period of forty-five (45) days following such submissions, approval by the Architectural Control Committee shall not be required, and full compliance with this Article shall be deemed to have been had.

ARTICLE THREE

EXTERIOR MAINTENANCE

3.01. In the event an Owner of any Lot shall fail to maintain the premises and the improvements situated thereon in a neat and orderly manner, the Architectural Control Committee shall have the right, but not the obligation, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot and exterior of the buildings and any other improvements erected thereon, all at the expense of Owner, and to impose a lien on the property with provisions similar to and

enforced in the same manner as a vendor's lien, but secondary and subordinate to any liens, deeds of trust and encumbrances given to secure purchase, construction, or repair money financing on said lot, or structure thereon.

Bulkheads

3.02. Each Lot owner is obligated to maintain and repair the bulkhead on the portion of his Lot which fronts a waterway, canal, or channel. No bulkheads shall be cut or any slips for boats, nor any structures built or planned in any portion of a waterway, canal, or channel, unless the location, plans and specifications therefor shall be prepared by a professional engineer (licensed by the State of Texas), and then submitted and approved by the Architectural Control Committee, and all necessary permits are obtained from governmental agencies having jurisdiction.

ARTICLE FOUR

USE RESTRICTIONS

Type of Building Permitted

4.01. All Lots shall be used for residential purposes only, and no building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single family dwelling not to exceed two stories in height. No temporary structures and no trailer, tent, shack, camper, garage, or other outbuilding shall be affixed to any Lot or connected to its utilities. No trailer or camper may be used for living or sleeping quarters. Garages and outbuildings that are appurtenant and attached to a residence may be erected on each building site upon which a main building has been erected.

Lots may be used, and the Architectural Control Committee is authorized to approve, such buildings erected on pilings or one-story height, if, but only if, such pilings are encased or covered with material suitable to the exterior of the dwelling and further if, but only if, not less than 33 1/3% of the enclosed floor area of the dwelling is enclosed in the first floor.

Minimum Floor Area

4.02. Any single story residence constructed on said Lots must have a ground floor area of not less than 1600 square feet, exclusive of open or screened porches, terraces, patios, driveways, carports, and garages. Any residence other than a single story residence must have not less than 1000 square feet of ground floor living area, exclusive of open or screened porches, terraces, patios, driveways, carports, and garages.

Setbacks and Slab Elevation

4.03. No building shall be located on any Lot nearer to the front Lot line or nearer to the side lot line than the minimum building setback lines designated "25' B.L." shown on the recorded plat. No portion of any building shall be erected nearer than six (6) feet to an interior Lot line. However, roofs, eaves or steps may extend over the minimum building setback line for a distance of not more than two (2) feet. No load bearing walls shall be constructed nearer than twenty (20) feet to the waterfront property line of any waterfront Lot, unless approved by the Architectural Control Committee. The minimum slab elevation for construction is 9.5 feet above mean sea level.

Resubdivision or Consolidation

4.04. None of said Lots shall be resubdivided in any fashion except that any person owning two or more adjoining

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Lots may subdivide or consolidate such Lots into building sites, with the privilege of constructing improvements as permitted in Paragraphs 4.02 and 4.03 hereof on each resulting building site, provided that such subdivision or consolidation does not result in any building site having a front Lot line of less than 70 feet, and provided that approval of the Architectural Committee is obtained.

Facing

4.05. All improvements on any Lot shall be constructed so as to face the street upon which such Lot fronts, but the entry door of a dwelling need not be on the front side. Improvements placed on corner Lots may face as approved by the Committee.

Exterior Walls

4.06. The design of and materials used in the exterior walls and surface areas of any outbuilding constructed on any Lots must be in keeping with the general architectural design of the main dwelling. Asbestos and metal may be used only as approved by the Committee.

Telephone and Electric Lines

4.07. All telephone and electric lines will be underground to the terminal point of the property line, and all service lines must also be installed underground from the terminal point to the building which they serve.

Fences or Walls

4.08. No fence or wall shall be erected, placed, altered, or maintained on any building site nearer to the street Lot line than the building line shown on the map of such subdivision. No fence shall be constructed higher than six (6) feet and all fences shall be subject to approval by the Committee.

Easements

4.09. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded replat. No utility company, water district, political subdivision, or other authorized entity using the easements herein referred to shall be liable for any damage done by them or their assigns, agents, employees, or servants, to shrubbery, trees, or flowers, or to other property of the Owner situated within any such easement.

Noxious or Offensive Activities Prohibited

4.10. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Prohibited Residential Uses

4.11. No structure of a temporary character, vehicle, trailer, mobile home, basement, tent, shack, garage, or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

Signs

4.12. No signs of any character shall be allowed on any Lot except one sign of not more than five square feet advertising the property for sale or rent; provided, however, that Declarant and any other person or entity engaged in the construction

and sale of residences within the subdivision shall have the right, during the construction and sales period, to construct and maintain such facilities as may be reasonably necessary or convenient for such construction and sale, including, but not limited to signs, offices, storage areas, and motel units, and as may be approved by the Architectural Committee.

Rubbish, Trash and Garbage

4.13. No Lot nor the water's edge of the Lot shall be used or maintained as a dumping ground for rubbish or trash, and no garbage or other waste shall be kept except in sanitary containers. All equipment for the storage and disposal of such materials shall be kept in a clean and sanitary condition. Owners are required to keep and maintain the water's edge along their property and boat slips free from trash and debris.

Animals

4.14. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot except that a normal number of dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose or in any offensive manner.

Fences, Walls, Hedges and Utility Meters

4.15. No fence, wall, hedge, or utility meter shall be placed, or permitted to remain, on any Lot nearer to the street or streets adjoining such Lot than is permitted for the main residence on such Lot, except for decorative subdivision entry fences.

Trucks, Buses, Boats and Trailers

4.16. No truck, bus, trailer, recreational vehicle, campers, automobile or boat shall be left permanently parked in the street in front of any Lot except for construction and repair equipment while a resident or residences are being built or repaired in the immediate vicinity, and no truck, bus, boat, or trailer shall be parked on the driveway or any portion of the Lot in such manner as to be offensive to the character of the Lot and subdivision as determined by the Architectural Control Committee.

Prohibited Activities

4.17. No professional, business, or commercial activity to which the general public is invited shall be conducted on any Lot.

Antennas

4.18. No outside antennas larger than a normal television antenna to receive local channels for household reception shall be used. No radio towers are permitted larger than the size of a normal television antenna as described above.

ARTICLE FIVE

Easements

Reservation of Easements

5.01. All easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the replat recorded in Volume 47 at Pages 201 & 202 of the Plat Records of Nueces County, Texas. No shrubbery,

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fence, or other obstruction shall be placed in any easement or alleyway. Right of use for ingress and egress shall be had at all times over any dedicated easement, and for the installation, operation, maintenance, repair, or removal of any utility, together with the right to remove any obstruction that may be placed in such easement which would constitute interference with the use, maintenance, operation, or installation of such utility.

Underground Electric System

5.02. An underground electric distribution system will be installed to serve all Lots in the subdivision. The Owner of each Lot shall, at his own cost and expense, furnish, install, own, and maintain (all in accordance with the requirements of local governmental authorities and the National Electrical Code) an underground service cable and appurtenances from the meter installed upon the Lot by the electric company to such point as may be designated by such company on the property line of such Lot. The company, furnishing electric service shall make the necessary connection at the property line and at the meter. Each Owner shall also install, furnish, own, and maintain at his own cost and expense a meter loop (in accordance with the then current standards and specifications of the electric company) for the residence constructed on the Lot. For so long as underground service is maintained, the electric service to each Lot shall be uniform in character and exclusively of the type known as single-phase 120/240 volt, 3-wire, 60-cycle, alternating current.

ARTICLE SIX

GENERAL PROVISIONS

Enforcement

6.01. The Declarant, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and reservations now or hereafter imposed by the provisions of this Declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Severability

6.02. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

Duration and Amendment

6.03. The covenants, conditions, and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of, and be enforceable by, the Declarant or the Owner of any Lot subject to this Declaration, and their respective legal representatives, heirs, successors, and assigns, and, unless amended as provided herein, shall be effective for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years. The covenants, conditions, and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than 70 per cent (70%) of the Lot Owners; during any succeeding ten (10) year period, the covenants, conditions, and restrictions of this Declaration may be amended during the last year of any such ten (10) year period by an instrument signed by not less than 65 per

cent of the Lot Owners. No amendment shall be effective until recorded in the Deed Records of Nueces County, Texas, nor until the approval of any governmental regulatory body which is required has been obtained.

ARTICLE SEVEN

CHANNEL DEDICATION

7.01. Channel A & B as shown on the replat of Bay Harbor Unit No.1, as recorded at Volume 47, Pages 201 & 202, Map Records of Nueces County, Texas, is dedicated as a private channel in order to afford each property owner facing the channel, including those outside of Bay Harbor Unit No.1, free ingress and egress by water to and from his respective property. Throughout the term of these restrictions and to the extent permitted by law. Channel A & B are permanently restricted to the use as a private channel for the use and benefit of and navigation by the Association hereinafter described, its members, successors and assigns, and the owners of all lots located within Bay Harbor Unit No.1 or any adjoining subdivision. All such persons shall have the non-exclusive right to navigate the channel portions for the purposes of ingress and egress to and from his property, provided, however, each lot owner is entitled; subject to applicable law; to construct piers, decks, walkway and dolphins for a boat slip, which shall not be covered, but not farther than eight (8) feet from the bulkhead of his property and unless specifically approved by the Architectural Control Committee and in no event to constitute an interference with the uninterrupted navigation of the deepened portions of Channel A & B intended for fairway use.

ARTICLE EIGHT

CHANNEL OWNERS ASSOCIATION

8.01. To provide for continued maintenance of roadway easement and all channels within the subdivision as they may now or hereafter exist, including the Barrow Canal within the subdivision as well as the bulkheads, and to accommodate the boats and recreation vessels of the Lot owners and to preserve the shoreline for their mutual benefit, and to provide for the common use, enjoyment and benefit of their Lots, the Declarant has caused or will cause to be created an association, hereinafter called "The Association," either a nonprofit corporation or as an association, proposed to be called the Bay Harbor Channel Owners Association, to which the Declarant will convey all of its interest in the land within the channels and roadway easements upon the completions of the channels. In order that said channels are properly maintained, the owners of said lots in this subdivision whose property adjoins a channel must also be responsible for the maintenance of the channels and the bulkheads. The following covenants are made in behalf of and are binding upon the present and future owners of lots adjoining said channels and are made as covenants running with the land:

(a) The Association and each lot owner adjoining a channel shall maintain the roadway easement; and the Association shall maintain all channels in navigable condition, free of safety hazards and debris to a depth of (6) six feet below mean low tide and a width of 125 feet from the bulkheads and shall maintain the bulkheads in good and satisfactory condition to stabilize the bank and shall further maintain his membership in the Association in good standing.

(b) Each executor, administrator, heir, successor, assignee, grantee, or purchaser of property within Bay Harbor Unit No.1 shall be deemed a party to this agreement and this agreement shall be deemed part of each conveyance of property within the subdivision whether or not said conveyance specifically refers to or incorporates this agreement by reference.

(c) The Association may assess its members a one time initiation fee now established at \$100.00 per lot, annual

dues now established at \$100.00 per lot per year, plus such other assessments as the membership may vote upon itself in accordance with the Bylaws, Resolutions or other lawful actions of the Association. Initiation fees and annual dues may be increased by lawful actions of the Association. Initiation fees and annual dues are payable to the Association at the time of purchase. Initiation fees are not refundable or proratable, but annual dues are proratable. Each owner binds himself, his heirs, successors and assigns to maintain his membership in good standing and pay Association dues as assessed lawfully and in accordance with its Bylaws, Resolutions and other actions. If twenty-five per cent (25%) of the lots, exclusive of Lots 1-3, fail to maintain membership by payment of dues or if the Association ceases to function or be bound, then each lot is bound as a covenant running with the land and Declarant does hereby bind him to maintain the roadway easement and channels and maintain and repair the bulkheads as described by paragraph (a) preceding.

8.02. There is hereby granted unto the Association and its successors an express lien against each lot into which the subject property may be subdivided as shown by the plats thereof to secure all obligations of the owner or owners of said lots to the Association as well as all obligations at any time imposed upon the owner or owners of said lots to the Association by virtue of membership in the Association. If the Association should terminate its existence without the creation of a successor thereto, the lien hereby created shall be for the benefit of Declarant and enforceable by it. Said lien may be foreclosed in the same manner as a vendor's lien, without prejudice however to any other rights, powers or causes of action which the holder of said lien may have against any party who is then or who has theretofore been the owner of the property affected thereby. Said lien and all other provisions of this agreement shall be secondary and subordinate, however, to any liens, deeds of trust and encumbrances whatsoever given to secure the purchase price of the subject property or any part thereof, and money lawfully loaned for the purpose of making repairs or constructing dwellings or any other improvements whatsoever on any portion of the subject property, or acquiring any note or other evidence of indebtedness previously made for any such purpose. If any such lender or party acquiring such indebtedness should be in doubt as to the purpose for which such loan was made, or indebtedness incurred, or as to whether the lien herein granted is subordinate to any lien or deed or trust given for the purpose for which such loan was made, or indebtedness incurred, or as to whether the lien herein granted is subordinate to any lien or deed of trust given for the purpose of securing any such mortgage or indebtedness, such lender or party acquiring such indebtedness may rely conclusively upon the written statement of any officer or director of the Association with respect thereto. The Association may, through its elected or designated representatives so empowered by its Bylaws, release or subordinate said lien and any other provisions of this agreement, in whole or in part, with respect to any lot or lots, should it deem agreement, in whole or in part, with respect to any lot or lots, should it deem it advisable, for any reason whatsoever, without affecting said lien insofar as it applies to any other lot or lots into which the subject property is subdivided.

Without diminishing the personal obligations which may become due by any member of the Association under the terms of its Charter and Bylaws, nor limiting nor restricting, the assessments by the Association, the lien hereby granted upon any lot shall not secure any sum greater than \$2,500.00 increased by

interest at the highest lawful and applicable rate from the date each such assessment is due to the Association, plus court and collection costs, or attorney's fees, lawfully then or thereafter due in accordance with the Bylaws of the Association.

8.03. Declarant will become a member of the Association and will comply with all of the obligations of membership herein as provided in the Charter and Bylaws of the Association, and will maintain such membership in the Association in good standing.

8.04. For the purposes of this agreement, the City of Aransas Pass, Texas, or any other political subdivision to which a portion of or interest in subject property may be conveyed, as well as all lienholders, mortgagors, trustees under deeds of trust, and owners or holders of any rights-of-way, easements, or similar interests, shall not be deemed to be an owner of a portion of the subject property; and shall not be entitled to any rights or benefits, or burdened by any duties or obligations, under the terms of this agreement.

8.05. Declarant reserves the right to convey additional or future channels in adjoining subdivision to the Association under the same terms and conditions as those herein stated and the funds from each channel in all subdivision may be combined to maintain all channels and bulkheads as long as the owners in each subdivision reasonably support the Association.

8.06. Each lot is bound to and entitled to one membership in the Association, and each lot ownership will carry the privilege of one vote in the Association.

ARTICLE NINE

OIL DEVELOPMENT PROHIBITED

9.01. No oil or gas well drilling, oil or gas development operations, oil refining, quarrying or mining operations of any kind shall be permitted on a Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted on any Lot. No derrick or other structure designed for use in boring for oil, natural gas, or other minerals shall be erected, maintained, or permitted on any Lot.

ARTICLE TEN

10.01. Invalidity of any of the terms, provisions or covenants contained in this instrument by judgment or court order shall not in any way affect any of the terms, provisions or covenants set forth in this instrument which shall survive and remain in full force and effect.

ARTICLE ELEVEN

11.01. The Travelers Insurance Company, the holder of a superior lien on the herein mentioned real property as evidenced by that certain Deed of Trust recorded in Volume 1660, page 177 of the Nueces County Deed of Trust Records, for good and valuable consideration by it received, the sufficiency of which is hereby acknowledged, hereby evidences its consent to and agreement with the restrictive covenants, conditions, dedication and channel agreement herein set forth, and does hereby agree that in the event of foreclosure of the liens held by it against such property, the purchaser at such foreclosure sale shall take title to such property subject to the matters affecting such property herein set forth; it being expressly agreed and understood, however, that any and all liens which may arise in favor of the Architectural Control Committee, the Association, or any other party under the terms and provisions hereinabove set forth are and shall be and remain subordinate and inferior to the liens held by The Travelers Insurance Company against said property.

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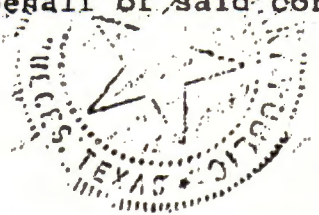
EXECUTED this 17 day of Feb., 1983.

THE TRAVELERS INSURANCE COMPANY
By: [Signature]
Edwin S. Brown, President
BROWN, BEASLEY & ASSOCIATES INC.,
as Agent

COASTAL PROPERTIES, INC.
By: [Signature]
George Strickhausen, III,
President

THE STATE OF TEXAS
COUNTY OF NUECES

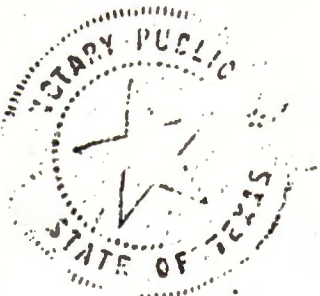
THIS INSTRUMENT was acknowledged before me on the 17th day of February, 1983, by George Strickhausen, III, President of COASTAL PROPERTIES, INC., a Texas corporation, on behalf of said corporation.



[Signature]
Notary Public, Nueces County, Texas
My Commission Expires 5-10-85
MRS. PEGGY HOSKINS
NOTARY PUBLIC IN AND FOR NUECES COUNTY, TEXAS
MY COMMISSION EXPIRES 5-10-85

THE STATE OF TEXAS
COUNTY OF BEXAR

THIS INSTRUMENT was acknowledged before me on the 22nd day of February, 1983, by Edwin S. Brown, Pres. of Brown, Beasley & Assoc. Inc., as Agent for ... THE TRAVELERS INSURANCE COMPANY, a corporation, on behalf of said corporation.



[Signature]
Notary Public, Bexar
County Texas
My Commission Expires _____

GEORGIA LEA SHANNON
Notary Public, State of Texas
My Commission Expires 3-31-85

STATE OF TEXAS
COUNTY OF NUECES }
I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me; and was duly RECORDED, in the Volume and Page of the named RECORDS of Nueces County, Texas, as stamped hereon by me, on

FEB 28 1983



[Signature]
COUNTY CLERK,
NUECES COUNTY, TEXAS

FILED FOR RECORD
FEB 29 3 32 PM '83

[Signature]
COUNTY CLERK, NUECES COUNTY TX

1610-WM
307357
COMPARED

- 21 -

LAWYERS-TITLE SERVICES, INC.
PO BOX 88