

Margaret



THIS INSTRUMENT PREPARED BY:

Department of Community Development  
Development Services Division  
1500 Monroe Street  
Fort Myers Florida 33901

INSTR # 6260602  
DR BK 04207 Pgs 1793 - 1799; (7pgs)  
RECORDED 05/18/2004 11:14:02 AM  
CHARLIE GREEN, CLERK OF COURT  
LEE COUNTY, FLORIDA  
RECORDING FEE 33.00  
DEPUTY CLERK B Jensen

RESOLUTION NO. 04-04-23 FOR PETITION TO VACATE

Case Number: VAC2003-00072

WHEREAS, Petitioner, Punta Gorda Isles, Section 22 Homeowners Association, Inc., a Florida not for profit corporation organized and good standing under Florida Statutes (F.S.) Chapter 617, in accordance F.S. Chapter 336 and Lee County Administrative Code (LCAC) 13-8, filed a Petition to Vacate the public's interest in the easements, rights-of-way and appurtenant drainage facilities, legally described in the attached Exhibit "A," and request the simultaneous conveyance of the same to the petitioning homeowners association for the subdivision where those improvements are located;

WHEREAS, Petitioner has represented its petitioned request is consistent with the provisions of Section 316.0025, F.S., as set forth herein, including the following:



1. The petitioning homeowners' association has requested the abandonment and conveyance for the purpose of converting the subdivision to a gated neighborhood with restricted public access; and
2. No fewer than four-fifths of the owners of record of property located in the subdivision have consented in writing to the abandonment and simultaneous conveyance to the petitioning homeowners' association; and
3. The petitioning homeowners' association is a "homeowners' association" as defined under Section 720.301(7), F.S., with the power to levy and collect assessments for routine and periodic major maintenance and operation of street lighting, drainage, sidewalks and pavement in the subdivision; and
4. The petitioning homeowners' association has adequate funds, reserve funds and funding sources for the ongoing operation, maintenance and repair and the periodic reconstruction or replacement of the roads, drainage, street lighting and sidewalks in the subdivision after the abandonment by the

LEE COUNTY FLORIDA  
SOUTH

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WHEREAS, consistent with the additional provisions of Section 316.00825, F.S., the Petitioner has represented that it will:

1. Install, operate, maintain, repair and replace all signs, signals, markings, striping, guardrails and other traffic control devices necessary or useful for the roads conveyed herein; and
2. Hold the roads and rights-of-way in trust for the benefit of the owners of the property in the subdivision, and will operate, maintain, repair and, from time to time, replace and reconstruct the roads, street lighting, sidewalks and drainage facilities as necessary to ensure their use and enjoyment by the property owners, tenants and residents of the subdivision and their guests and invitees; and

WHEREAS, the Board of County Commissioners of Lee County, Florida held a Public Hearing on this Petition to Vacate on the 13<sup>th</sup> day of April, 2004, at 5:00 P.M.; and

WHEREAS, notice concerning the intent of the Petition to Vacate was provided in accordance with LCAC 13-8; and

WHEREAS, a legally sufficient Affidavit of Publication regarding the Notice of Public Hearing on this Petition to Vacate was entered into the minutes of the County Commission Meeting; a copy of said Affidavit is attached as Exhibit "C;" and

WHEREAS, it appears the vacating, abandoning and conveying the roads, rights-of-way and appurtenant drainage facilities legally described in attached Exhibit "A" is in the best interest of the public and promotes the public's health, safety, and welfare without invading or violating any individual property rights; and

WHEREAS, the letters of review and recommendation provided by the various governmental and utility entities indicate granting the Petitioner's request is appropriate and in accordance with F.S. Chapter 336.

NOW therefore be it resolved by the Board of County Commissioners as follows:

1. Petition to Vacate No. VAC2003-00072 is hereby granted.
2. The public's interest in the roads, rights-of-way and drainage facilities legally described in attached Exhibit "A" and graphically depicted in the sketch attached as Exhibit "B" is hereby vacated and abandoned, and simultaneously conveyed to the Petitioner homeowners' association.

3. A Notice of Resolution Adoption will be published one time within 30 days of adoption in a newspaper of general circulation. An Affidavit of Publication for the Notice of Resolution Adoption will be attached to this Resolution as Exhibit "D."
4. This Resolution will become effective upon recording of a fully executed Resolution, including all exhibits referred to above, in the Public Records of Lee County, Florida.

This Resolution passed by voice and entered into the minutes of the Board of County Commissioners of Lee County, Florida, this 13<sup>th</sup> day of April, 2004, at 5:00 P.M.

ATTEST:  
CHARLIE GREEN, CLERK

Michele A. Cooper  
Deputy Clerk Signature

Michele A. Cooper  
Please Print Name

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

John E. Albion  
Chairman Signature

John E. Albion  
Please Print Name



APPROVED AS TO FORM

John J. Fredyma  
County Attorney Signature

John J. FREDYMA  
Please Print Name

LEE COUNTY  
SOUTHWEST FLORIDA

**Exhibit "A"**  
**Petition to Vacate**  
**VAC2003-00072**

**Legal Description of**  
**Road/Road Rights-of-way to be Vacated**

All road rights-of-way as shown on the Plat of Punta Gorda Isles, Section Twenty Two, a portion of Section 1, T43S, R22E & a portion of Section 6, T43S, R23E, as recorded in Plat Book 28, at Page 118 of the Public Records of Lee County, Florida, AND the Plat of Punta Gorda Isles, Section Twenty Two Replat, a portion of Section 1, Township 43 South, Range 22 East, being a Replat of Plat of Punta Gorda Isles, Section Twenty Two as recorded in Plat Book 28, Page 118, said replat being recorded in Plat Book 34, at Page 92 of the Public Records of Lee County, Florida, and any amendments and supplements thereto, inclusive of cul-de-sac endings, irregular or curved rights of way lines at intersecting streets and the points of terminus and curves establishing said points of those streets intersecting the boundary of Section 22 as described below:

Big Pine Lane,  
Cape Cole Boulevard,  
Matecumbe Key Road,  
Marathon Way,  
Key Largo Lane,  
Key Largo Circle,  
Sugarloaf Key Road,  
Sable Key Circle,  
Marianne Key Road,  
Romano Key Circle,  
Big Pass Lane,  
Big Bend Circle,  
Islamorada Road, a/k/a Islamorada Boulevard,  
Little Pine Circle, and  
Pirates Lane.

