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Stark County Recorder T20070006369

AMENDMENTS TO THE
DECLARATION OF CONDOMINIUM OWNERSHIP
UNDER CHAPTER 5311 OF THE REVISED CODE OF OHIO
FOR
BROOKSHIRE COMMONS CONDOMINIUM

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF CONDOMINIUM OWNERSHIP FOR BROOKSHIRE COMMONS CONDOMINIUM RECORDED AT VOLUME 39, PAGE 627 ET SEQ. OF THE STARK COUNTY RECORDS.

AMENDMENTS TO THE
DECLARATION OF CONDOMINIUM OWNERSHIP FOR
BROOKSHIRE COMMONS CONDOMINIUM

WHEREAS, the Declaration of Condominium Ownership for Brookshire Commons Condominium (the "Declaration") and the By-Laws of Brookshire Commons Condominium Association (the "Bylaws"), Exhibit E to the Declaration, were recorded at Stark County Records Volume 39, Page 627 et seq., and

WHEREAS, Section 5311.05(E)(1) of the Ohio Revised Code, as amended on July 20, 2004, authorizes the Board of Directors, without a vote of the Owners, to amend the Declaration "to bring the Declaration in compliance with this Chapter," and

WHEREAS, the Board of Directors approved the following matters to be modified (the "Amendments") in order to bring the Declaration into compliance with Ohio Revised Code Chapter 5311, and

WHEREAS, the proceedings necessary to amend the Declaration and Bylaws as permitted by Chapter 5311 of the Ohio Revised Code and the Declaration of Condominium Ownership for Brookshire Commons Condominium have in all respects been complied with.

NOW THEREFORE, the Declaration of Condominium Ownership for Brookshire Commons Condominium is hereby amended by the Board of Directors as follows:

- (1) All references in the Declaration and Bylaws to the term "Common Areas" or "Common Areas and Facilities" shall be replaced with the term "Common Elements."
- (2) All references in the Declaration and Bylaws to the term "Limited Common Areas" or "Limited Common Areas and Facilities" shall be replaced with the term "Limited Common Elements."
- (3) All references in the Declaration and Bylaws to the term "Board of Managers" and/or "Board of Trustees" shall be replaced with the term "Board of Directors."
- (4) INSERT a new 2nd PARAGRAPH to DECLARATION ARTICLE XIX, SECTION 2, entitled "Enforcement Assessments." Said new addition, to be added on Page 21 of the Declaration, as recorded at Stark County Records, Volume 39, Page 627 et seq., is as follows:

In accordance with Ohio Revised Code Section 5311.081(B)(12), the Board shall have the authority to impose interest and administrative late fees for the late payment of Assessments; impose returned check charges; and, in accordance with the procedure outlined in Ohio Revised Code Section 5311.081(C)(1), impose reasonable enforcement Assessments for violations of

the Declaration, the Bylaws, and the rules of the Association, and reasonable charges for damage to the Common Elements.

(5) INSERT a new 2nd PARAGRAPH to the end of DECLARATION ARTICLE III, SECTION 2(g), entitled "Renting and Leasing." Said new addition, to be added on Page 4 of the Declaration, as recorded at Stark County Records, Volume 39, Page 627 et seq., is as follows:

In accordance with Ohio Revised Code Section 5311.19(B), the Association may initiate eviction proceedings, pursuant to Chapters 5321 and 1923 of the Revised Code, to evict a tenant. The action shall be brought by the Association, as the Unit Owner's Agent, in the name of the Unit Owner. In addition to any procedures required by Chapters 5321 and 1923 of the Revised Code, the Association shall give the Unit Owner at least ten days written notice of the intended eviction action. The costs of any eviction action, including reasonable attorney's fees, shall be charged to the Unit Owner and shall be the subject of a special Assessment against the offending Unit and made a lien against that Unit.

(6) INSERT a new 2nd PARAGRAPH to the end of DECLARATION ARTICLE XVII, SECTION 5(a). Said new addition, to be added on Page 19 of the Declaration, as recorded at Stark County Records, Volume 39, Page 627 et seq., is as follows:

In accordance with Ohio Revised Code Section 5311.18(A)(2), the Association shall credit payments made by a Unit Owner in the following order of priority:

- (1) First, to interest owed to the Association;
- (2) Second, to administrative late fees owed to the Association;
- (3) Third, to collection costs, attorney's fees, and paralegal fees incurred by the Association; and
- (4) Fourth, to the principal amounts the Unit Owner owes to the Association for the common expenses or enforcement Assessments chargeable against the Unit.

(7) INSERT a new DECLARATION ARTICLE XVII, SECTION 5(i). Said new addition, to be added on Page 20 of the Declaration, as recorded at Stark County Records, Volume 39, Page 627 et seq., is as follows:

D. Suspended Rights. In accordance with Ohio Revised Code Section 5311.081(B)(18), when a Unit Owner is delinquent in the payment of Assessments for more than thirty (30) days, the Board may, by a majority

vote, suspend the privileges of the owner and/or right of the occupants to use the recreational facilities.

(8) INSERT a new 2nd PARAGRAPH to the end of DECLARATION ARTICLE XVII, SECTION 3(c), entitled "Special Individual Unit Assessments." Said new addition, to be added on Page 18 of the Declaration, as recorded at Stark County Records, Volume 39, Page 627 et seq., is as follows:

In accordance with Ohio Revised Code Section 5311.081(B)(15), the Board may impose reasonable charges to the Unit Owner for providing copies of the Declaration, Bylaws or amendments thereto as well as reasonable charges for the handling of re-financing and/or resale documentation, and/or statements of unpaid Assessments.

(9) INSERT a new DECLARATION ARTICLE III, SECTION 2(s), entitled "Owner/Resident Information." Said new addition, to be added on Page 6 of the Declaration, as recorded at Stark County Records, Volume 39, Page 627 et seq., is as follows:

(s) Owner/Resident Information. In accordance with Ohio Revised Code Section 5311.09(A)(2) and (3), each Unit Owner shall, within thirty (30) days of the recording of this Amendment or within thirty (30) days of title transferring to the Unit Owner, provide to the Association the Unit Owner's and/or all occupants' names, home and business mailing addresses, home and business telephone numbers, and the name, business address and business telephone number of any person who manages the Unit as an agent of that Owner. Any change in the information shall be provided to the Board, in writing, within thirty (30) days of said change.

(10) DELETE DECLARATION ARTICLE VIII, SECTION 4, entitled "Board of Trustees." Said deletion to be made on Pages 9-10 of the Declaration, as recorded at Stark County Records, Volume 39, Page 627 et seq.

INSERT a new DECLARATION ARTICLE VIII, SECTION 4, entitled "Board of Directors." Said addition, to be made on Pages 9-10 of the Declaration, as recorded at Stark County Records, Volume 39, Page 627, et seq., is as follows:

Section 4. Board of Directors. The Board of Directors shall consist of three (3) Directors, each of whom must be a Unit Owner or the spouse of a Unit Owner, for staggered three-year terms, so that the term of one-third of the Directors will expire and successors be elected at each annual meeting of the Association. No one (1) Unit may be represented by more than one (1) person on the Board at any one (1) time.

(11) INSERT a new 2nd SENTENCE to the end of BYLAWS ARTICLE IV, SECTION 7, entitled "Regular Meetings." Said new addition, to be added on Page 2 of the Bylaws, Exhibit E of the Declaration, as recorded at Stark County Records, Volume 39, Page 627 et seq., is as follows:

In accordance with Ohio Revised Code Section 5311.08(A)(4)(a), any Board meeting may be held in person or by any method of communication, including electronic or telephonic communication, provided that each Board member can hear, participate and respond to every other Board member.

(12) INSERT a new PARAGRAPH (k) to BYLAWS ARTICLE IV, SECTION 12, entitled "Powers." Said new addition to be added on Page 3 of the Bylaws, Exhibit E of the Declaration, as recorded at Stark County Records, Volume 39, Page 627 et seq., is as follows:

- (k) In accordance with Ohio Revised Code Section 5311.081(B), in addition to all other powers enumerated herein, the Board may exercise all powers of the Association, including the power to do the following:
- (i) Hire and fire attorneys, accountants, and other independent contractors and employees that the Board determines are necessary or desirable in the management and/or operation of the Condominium Property and the Association;
 - (ii) Commence, defend, intervene in, settle, or compromise any civil, criminal, or administrative action or proceeding that is in the name of, or threatened against, the Association, the Board, or the Condominium Property, or that involves two or more Unit Owners and relates to matters affecting the Condominium Property;
 - (iii) Enter into contracts and incur liabilities relating to the operation of the Condominium Property;
 - (iv) Grant easements, leases, licenses, and concessions through or over the Common Elements;
 - (v) Impose and collect fees or other charges for the use, rental, or operation of the Common Elements or for services provided to Unit Owners;
 - (vi) Invest excess funds in investments that meet standards for fiduciary investments under Ohio law.

(13) Any conflict between the above provisions and any other provisions of the Declaration and Bylaws shall be interpreted in favor of the above amendments. Upon the recording of these amendments, only Unit Owners of record at the time of such filing shall have standing to contest the validity of these amendments, whether on procedural, substantive or any other grounds, provided further that any such challenge shall be brought in the court of common pleas within one year of the recording of the amendments.

IN WITNESS WHEREOF, the said Brookshire Commons Condominium Association has caused the execution of this instrument this 8th day of February, 2007.

BROOKSHIRE COMMONS CONDOMINIUM ASSOCIATION

By: Jane Guest
JANE GUEST, its President

STATE OF OHIO)
) SS
COUNTY OF STARK)

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named Brookshire Commons Condominium Association, by Jane Guest, its President, who acknowledged that she did sign the foregoing instrument, on Page 6 of 6, and that the same is the free act and deed of said corporation and the free act and deed of her personally and as such officer.


IN WITNESS WHEREOF, I have hereunto set my hand and official seal in Stark Co, Ohio, this 8th day of February, 2007.



RAQUEL ALLMAN, NOTARY
STATE OF OHIO
MY COMMISSION EXPIRES: 10/17/11

Raquel Allman
NOTARY PUBLIC

This instrument prepared by:
KAMAN & CUSIMANO, Attorneys at Law
2000 Terminal Tower
50 Public Square
Cleveland, Ohio 44113
(216) 696-0650


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