

WAYNE COUNTY, OHIO

11-3-2015

TRANSFER NOT NECESSARY
JARRAL L. UNDERWOOD, AUDITOR

BY Anna Hatten DEPUTY

Anna Hatten

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CLEVELAND OH 44113

AMENDMENTS TO THE
DECLARATION OF CONDOMINIUM OWNERSHIP
FOR
THE GROVES AT THE VILLAGES OF WETHERINGTON CONDOMINIUMS

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF CONDOMINIUM OWNERSHIP FOR THE GROVES AT THE VILLAGES OF WETHERINGTON CONDOMINIUMS RECORDED AT O.R. 489, PAGE 1505 ET SEQ. AND THE BYLAWS OF THE GROVES AT THE VILLAGES OF WETHERINGTON RECORDED AT O.R. 717, PAGE 936 ET SEQ. OF THE WAYNE COUNTY RECORDS.

**AMENDMENTS TO THE
DECLARATION OF CONDOMINIUM OWNERSHIP FOR
THE GROVES AT THE VILLAGES OF WETHERINGTON CONDOMINIUMS**

WHEREAS, the Declaration of Condominium Ownership for The Groves at The Villages of Wetherington Condominiums (the "Declaration") was recorded at Wayne County Records, O.R. 489, Page 1505 et seq. and the Bylaws of The Groves at the Villages of Wetherington Condominium Association, Inc. (the "Bylaws") were recorded at Wayne County Records, O.R. 717, Page 936 et seq., and

WHEREAS, The Groves at the Villages of Wetherington Condominium Association, Inc. (the "Association") is a corporation consisting of all Unit Owners in the Groves at the Villages of Wetherington Condominium and as such is the representative of all Unit Owners, and

WHEREAS, Declaration Article XIX, Section 1 authorizes amendments to the Declaration and Bylaws, and

WHEREAS, Unit Owners representing at least 75% of the Association's current voting power have executed instruments in writing setting forth specifically the matters to be modified (the "Amendments"), and

WHEREAS, the Association has in its records the signed, written consents to Amendments A and B signed by Unit Owners representing 88.46% of the Association's voting power as of August 8, 2015, and

WHEREAS, the Association has in its records the power of attorney signed by Unit Owners representing 88.46% of the Association's voting power authorizing the Association's officers to execute Amendments A and B on their behalf, and

WHEREAS, the Association has in its records the signed, written consents to Amendments C, D, and E signed by Unit Owners representing 90.38% of the Association's voting power as of August 8, 2015, and

WHEREAS, the Association has in its records the power of attorney signed by Unit Owners representing 90.38% of the Association's voting power authorizing the Association's officers to execute Amendments C, D, and E on their behalf, and

WHEREAS, attached as Exhibit A is a certification of the Association's President and Secretary stating that the Amendments were duly adopted in accordance with the Declaration provisions, and

WHEREAS, the proceedings necessary to amend the Declaration and Bylaws as required by Chapter 5311 of the Ohio Revised Code and the Declaration and Bylaws have in all respects been complied with.

NOW THEREFORE, the Declaration of Condominium Ownership for The Groves at The Villages of Wetherington Condominiums is amended by the following:

AMENDMENT A

INSERT a new DECLARATION ARTICLE IV, SECTION 2(p) entitled, "Occupancy Restriction." Said new addition, to be added on Page 10 of the Declaration, as recorded at Wayne County Records, O.R. 489, Page 1505 et seq., is as follows:

(p) Occupancy Restriction. A person who is classified a Tier III or Tier II sexual offender/child-victim offender, or any future equivalent classification, and for whom the County Sheriff or other government entity must provide community notification of the sex offender's residence is prohibited from residing in or occupying a Unit or remaining in or on the Condominium Property for any length of time. The classification of a sexual offender/child-victim offender and determination of whether notice is required is made by a court of law pursuant to the Ohio Sex Offenders Act, as may be amended and/or renamed from time to time, or similar statute from another jurisdiction. The Association is not, however, liable to any Unit Owner or Occupant, or anyone visiting any Unit Owner or the Association, as a result of the Association's alleged failure, whether negligent, intentional, or otherwise, to enforce the provisions of this restriction.

Any conflict between this provision and any other provisions of the Declaration and Bylaws will be interpreted in favor of this restriction on the occupancy of Units. The invalidity of any part of the above provision does not impair or affect in any manner the validity or enforceability of the remainder of the provision.

Upon the recording of this amendment, only Unit Owners of record at the time of such filing have standing to contest the validity of the amendment, whether on procedural, substantive, or any other grounds, provided further that any such challenge must be brought in the court of common pleas within one year of the recording of the amendment.

AMENDMENT B

INSERT a new PARAGRAPH (g) to DECLARATION ARTICLE XII, Section 1 entitled, "Fire and Extended Coverage Insurance." Said new addition, to be added on Page 15 of the Declaration, as recorded at Wayne County Records, O.R. 489, Page 1505 et seq., is as follows:

(g) The Association's Property Insurance will include a reasonable deductible as determined by the Board. The Unit Owner is responsible for any repairs or expenses up to the amount of any applicable deductible for loss or damage to their Unit and Limited Common Elements and the Association is responsible for all costs and other expenses pertaining to the Common Elements. If a single loss affects multiple portions of the Condominium Property, for example, one or more Units and the Common Elements, the repair costs and expenses not paid for by the insurance proceeds are to be proportionately allocated in relation to the amount each party's claim bears to the total amount of the claim, with the party incurring the larger share of the loss responsible for the larger share of the deductible. The Association may assess the amount of any deductible expense attributable to any Unit(s) to the Unit Owner(s) of such Unit(s).

Any conflict between the above provision and any other provisions of the Declaration and Bylaws will be interpreted in favor of this provision modifying the deductible requirements for the Association's insurance coverage. The invalidity of any part of the above provision does not impair or affect in any manner the validity or enforceability of the remainder of the provision. Upon the recording of this amendment, only Unit Owners of record at the time of such filing have standing to contest the validity of the amendment, whether on procedural, substantive, or any other grounds, provided further that any such

challenge must be brought in the court of common pleas within one year of the recording of the amendment.

AMENDMENT C

INSERT a new PARAGRAPH to DECLARATION ARTICLE XXI, Section 3 entitled, "Enforcement." Said new addition, to be added on Page 29 of the Declaration, as recorded at Wayne County Records, O.R. 489, Page 1505 et seq., is as follows:

The Board may levy reasonable enforcement assessments if any Unit Owner (either by their conduct or by the conduct of any Occupant or guest of their Unit) violates any provision of the Declaration, Bylaws, or rules. The Board may also levy reasonable charges for damage to the Common Elements or any part of the Condominium Property for which the Association is responsible to maintain. Said Unit Owner must pay to the Association, in addition to any other sums due, any enforcement assessments, any charges for damage, and all fees, costs, and expenses the Association incurs in connection with the enforcement of any provision of the Declaration, Bylaws, or rules and/or repair of damage, including reasonable attorneys' fees and/or court costs. Said enforcement assessments, charges for damage, fees, costs, and expenses will be charged as a special individual unit assessment against said Unit, and is the personal obligation of said Unit Owner. The Association, in addition to all other remedies available, has the right to place a lien on the estate or interest in the Unit of said Unit Owner as further explained and set forth in Declaration Article XVI, Section 5(c).

Any conflict between these provisions and any other provisions of the Declaration and Bylaws will be interpreted in favor of this amendment regarding the cost of enforcement. The invalidity of any part of the above provision does not impair or affect in any manner the validity or enforceability of the remainder of the provision. Upon the recording of this amendment, only Unit Owners of record at the time of such filing have standing to contest the validity of the amendment, whether on procedural, substantive, or any other grounds, provided

further that any such challenge must be brought in the court of common pleas within one year of the recording of the amendment.

AMENDMENT D

DELETE DECLARATION ARTICLE VIII, SECTION 4 entitled, "Board of Directors," in its entirety. Said deletion to be taken from Pages 12-13 of the Declaration, as recorded at Wayne County Records, O.R. 489, Page 1505 et seq. and as amended at O.R. 717, Page 936 et seq., and as further amended at O.R. 806, Page 2274 et seq.

INSERT a new DECLARATION ARTICLE VIII, SECTION 4 entitled, "Board of Directors." Said new addition, to be added on Page 12 of the Declaration, as recorded at Wayne County Records, O.R. 489, Page 1505 et seq., is as follows:

Section 4. Board of Directors. The Board and officers of the Association, elected as provided in the Bylaws, will exercise the powers, discharge the duties, and be vested with the rights of the Association conferred by operation of law, Bylaws, and this Declaration, unless a vote of the Unit Owners is specifically required; provided, however, that in the event any such power, duty, or right will be deemed exercisable or dischargeable by, or vested in, an officer or member of the Board, solely in their capacity as an officer or a member of the Board, they will be deemed to act in such capacity to the extent required to authenticate their acts and to carry out the purposes of this Declaration and Bylaws.

DELETE BYLAWS ARTICLE IV, SECTION 2 entitled, "Successor Directors," in its entirety. Said deletion to be taken from Page 3 of the Bylaws, as recorded at Wayne County Records, O.R. 717, Page 936 et seq.

INSERT a new BYLAWS ARTICLE IV, SECTION 2 entitled, "Successor Directors." Said new addition, to be added on Page 3 of the Bylaws, as recorded at Wayne County Records, O.R. 717, Page 936 et seq., is as follows:

Section 2. Successor Directors. The Board of Directors will consist of five members, all of whom must be Unit Owners or the spouse of a Unit Owner, and a member in good standing, except as

provided otherwise in these Bylaws; provided, however, that no Unit may be represented by more than one person on the Board at any one time. If a Unit Owner is not an individual, that Unit Owner may nominate for the Board of Directors any principal, member of a limited liability company, partner, director, officer, or employee of that Unit Owner. Good standing requires that the member not be more than 30 days delinquent in the payment of any fees and/or Assessments owed to the Association. In addition to the provisions of Bylaws Article IV, Section 3, a majority of the remaining Board members may remove any Board member who ceases to meet such good standing qualifications during his term. All Directors will be elected for a three-year term, however, the terms will be staggered so that at least one-fifth of the Board will expire annually and a 2-2-1 rotation is maintained at all times. Each Board member will hold office until their successor is elected, or until their earlier resignation, removal from office or death. Any Board member may resign at any time by oral statement to that effect made at a meeting of the Board or in a writing to that effect delivered to the Secretary or President of the Association, such resignation to take effect immediately or at such other time as the Board member may specify.

Any conflict between this provision and any other provisions of the Declaration and Bylaws will be interpreted in favor of this amendment providing for Board member terms of three years each with staggered 2-2-1 elections and modifying qualifications for serving on the Board. The invalidity of any part of the above provision will not impair or affect in any manner the validity or enforceability of the remainder of the provision. Upon the recording of this amendment, only Unit Owners of record at the time of such filing will have standing to contest the validity of the amendment, whether on procedural, substantive, or any other grounds, provided further that any such challenge will be brought within one year of the recording of the amendment.

AMENDMENT E

INSERT a new BYLAWS ARTICLE IV, SECTION 16 entitled, "Indemnification of Board Members, Officers, and Committee Members." Said new addition, to be added on Page 7 of the Bylaws, as recorded at Wayne County Records, O.R. 717, Page 936 et seq., is as follows:

Section 16. Indemnification of Board Members, Officers, and Committee Members. The Association must indemnify and defend (as provided below): (1) any current or former Director, (2) any current or former Association officer, (3) any current or former Association committee member, or (4) any of said Director's, officer's, or committee member's respective heirs, executors, and administrators; against reasonable expenses, including attorneys' fees, judgments, decrees, fines, penalties, or amounts paid in settlement, actually and necessarily incurred by them in connection with the defense of any pending or threatened action, suit, or proceeding, criminal or civil, derivative or third party, to which they are or may be made a party by reason of being or having been such Director, officer, or committee member provided it is determined, in the manner set forth below, that (i) such Director, officer, or committee member was not and is not adjudicated to have been grossly negligent or guilty of misconduct in the performance of their duty to the Association; (ii) such Director, officer, or committee member acted in good faith in what they reasonably believed to be in, or not opposed to, the Association's best interest; (iii) in any criminal action, suit, or proceeding, such Director, officer, or committee member had no reasonable cause to believe that their conduct was unlawful and is not convicted of theft or other theft related crime including but not limited to larceny, forgery, false pretenses, fraud, embezzlement, conversion, or any conspiracy related to any such theft related crime; and (iv) in case of settlement, the amount paid in the settlement was reasonable.

The above determination required will be made by written opinion of independent legal counsel the Board chooses. Notwithstanding the opinion of legal counsel, to the extent that a Director, officer, or committee member is successful in defense of any action, suit, or proceeding, or in the defense of any claim, issue, or matter, as the Board so verifies, they must, in that event, be indemnified and reimbursed for any costs and expenses, including legal fees, incurred in such defense. Any defense the Association provides will be by legal counsel the Association's insurance carrier selects or, if not selected by the Association's insurance carrier, a majority of the Directors excluding the accused or threatened Director(s). If a majority of the Directors cannot agree on legal

counsel or if all the Directors are accused or threatened in any such action, the Board will appoint a special committee of three Unit Owners to select legal counsel to defend the Directors.

(a) Advance of Expenses. The Association may advance funds to cover expenses, including attorneys' fees, with respect to any pending or threatened action, suit, or proceeding prior to the final disposition upon receipt of a request to repay such amounts.

(b) Indemnification Not Exclusive; Insurance. The indemnification provided for in this Section is not exclusive, but is in addition to any other rights to which any person may be entitled under the Articles of Incorporation, the Declaration, these Bylaws, or rules and regulations of the Association, any agreement, any insurance provided by the Association, the provisions of Ohio Revised Code Section 1702.12(E) and its successor statutes, or otherwise. The Association must purchase and maintain insurance on behalf of any person who is or was a Director, officer, or committee member against any liability asserted against them or incurred by them in such capacity or arising out of their status as a Director, officer, or committee member.

(c) Directors, Officers, and Committee Members Liability. The Association's Directors, officers, and committee members are not personally liable to the Unit Owners for any mistake of judgment, negligence, or otherwise, except for their own willful misconduct or bad faith. The Association's and Unit Owners' indemnification includes, but is not limited to, all contractual liabilities to third parties arising out of contracts made on the Association's behalf, except with respect to any such contracts made in bad faith or contrary to the provisions of the Declaration or these Bylaws. Every contract or agreement approved by the Board and made by any Director, officer, or committee member is made only in such Director's, officer's, or committee member's capacity as a representative of the Association and has no personal liability under such contract or agreement (except as a Unit Owner).

(d) Cost of Indemnification. Any sum paid or advanced by the Association under this Section constitutes a Common Expense. The Board has the power and the responsibility to raise, by special Assessment or otherwise, any sums required to discharge the Association's obligations under this Section; provided, however, that the liability of any Unit Owner arising out of the contract made by any Director, officer, or committee member or out of the aforesaid indemnity in favor of such Director, officer, or committee member is limited to such proportion of the total liability as said Unit Owner's pro rata share bears to the total percentage interest of all the Unit Owners as Association members.

Any conflict between this provision and any other provisions of the Declaration and Bylaws are to be interpreted in favor of this amendment for the indemnification of the Association's Directors, officers, and committee members. The invalidity of any part of the above provision does not impair or affect in any manner the validity or enforceability of the remainder of the provision. Upon the recording of this amendment, only Unit Owners of record at the time of such filing have standing to contest the validity of the amendment, whether on procedural, substantive, or any other grounds, provided further that any such challenge must be brought in the court of common pleas within one year of the recording of the amendment.

The Groves at the Villages of Wetherington Condominium Association, Inc. has caused the execution of this instrument this 21st day of Oct, 2015.

THE GROVES AT THE VILLAGES OF WETHERINGTON CONDOMINIUM ASSOCIATION, INC.

By: Linda L. Berry
LINDA BERRY, its President

By: Janis Carlson
JANIS CARLSON, its Secretary

STATE OF OHIO)
)
COUNTY OF Wayne) SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named The Groves at the Villages of Wetherington Condominium Association, Inc., by its President and its Secretary, who acknowledged that they did sign the foregoing instrument, on Page 10 of 12, and that the same is the free act and deed of said corporation and the free act and deed of each of them personally and as such officers.

I have set my hand and official seal in Wooster, Ohio, this 21st day of October, 2015.

Catrina R. Fox
NOTARY PUBLIC

Place notary stamp/seal here:



December 8, 2019

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

EXHIBIT A

CERTIFICATION OF PRESIDENT AND SECRETARY

STATE OF OHIO)
)
COUNTY OF Wayne) SS

LINDA BERRY and JANIS CARLSON, being the duly elected and acting President and Secretary of The Groves at the Villages of Wetherington Condominium Association, Inc., certify that the Amendments to the Declaration of Condominium Ownership for The Groves at The Villages of Wetherington Condominiums were duly adopted in accordance with the provisions set forth in the Declaration for amendments.

Linda L. Berry
LINDA BERRY, President

Janis J. Carlson
JANIS CARLSON, Secretary

BEFORE ME, a Notary Public in and for said County, personally appeared the above named LINDA BERRY and JANIS CARLSON who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed.

IN TESTIMONY WHEREOF, I have set my hand and official seal in Waukesha, Ohio, this 2nd day of October, 2015.

Catrina R. Fox
NOTARY PUBLIC
Catrina R Fox
December 8, 2019

