

CUYAHOGA COUNTY RECORDER
PATRICK J. O'MALLEY
DEED 07/25/2005 10:19:43 AM
200507250099

AMENDMENTS TO THE
DECLARATION OF CONDOMINIUM OWNERSHIP
FOR
MACINTOSH FARMS CONDOMINIUM NO. 2

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF
CONDOMINIUM OWNERSHIP FOR MACINTOSH FARMS CONDOMINIUM NO. 2
RECORDED AT VOLUME 95-02546, PAGE 53 ET SEQ. OF THE CUYAHOGA
COUNTY RECORDS.

AMENDMENTS TO THE
DECLARATION OF CONDOMINIUM OWNERSHIP FOR
MACINTOSH FARMS CONDOMINIUM NO. 2

WHEREAS, the Declaration of Condominium Ownership for Macintosh Farms Condominium No. 2 (the "Declaration") and the Bylaws of Macintosh Farms Condominium No. 2 Owners' Association, Inc. (the "Bylaws"), Exhibit "B" to the Declaration, were recorded at Cuyahoga County Records Volume 95-02546, Page 53 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 Macintosh Farms Condominium No. 2 have in all respects been complied with.

NOW THEREFORE, the Declaration of Condominium Ownership for Macintosh Farms Condominium No. 2 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" shall be replaced with the term "Board of Directors."
- (4) All references in the Declaration and Bylaws to the term "Fines" shall be replaced with the term "Enforcement Assessments."
- (5) DELETE DECLARATION ARTICLE IV, SECTION (C), entitled "Service of Process," in its entirety. Said deletion is to be made on Pages 20-21 of the Declaration, as recorded at Cuyahoga County Records Volume 95-02546, Page 53 et seq.

INSERT a new DECLARATION ARTICLE IV, SECTION (C), entitled "Service of Process." Said addition, to be made on Pages 20-21 of the Declaration, as recorded at Cuyahoga County Records Volume 95-02546, Page 53 et seq., is as follows:

(C) Service of Process. The person to receive service of process for the Association shall be as designated by the Board. This designation will be accomplished by filing with the Ohio Secretary of State the required statutory agent designation form.

(6) DELETE DECLARATION ARTICLE XVII, SECTION (B), entitled "Fines." in its entirety. Said deletion is to be made on Page 48 of the Declaration, as recorded at Cuyahoga County Records Volume 95-02546, Page 53 et seq.

INSERT a new DECLARATION ARTICLE XVII, SECTION (B), entitled "Enforcement Assessments." Said addition, to be made on Page 48 of the Declaration, as recorded at Cuyahoga County Records Volume 95-02546, Page 53 et seq., is as follows:

(B) Enforcement Assessments. 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.

(7) INSERT a new 2nd PARAGRAPH to the end of DECLARATION ARTICLE V, SECTION (D), entitled "Lien of Association." Said new addition, to be added on Page 22 of the Declaration, as recorded at Cuyahoga County Records Volume 95-02546, Page 53 et seq., is as follows:

In accordance with Ohio Revised Code Section 5311.18(A)(1)(b), the Association has a lien upon each Unit's ownership interest for any unpaid interest, administrative late fees, enforcement Assessments, and collection costs, attorney's fees, and paralegal fees.

(8) INSERT a new PARAGRAPH to the end of DECLARATION ARTICLE XVI, SECTION (B), entitled "Unit Owner's Right to Lease Unit." Said new addition, to be added on Page 47 of the Declaration, as recorded at Cuyahoga County Records Volume 95-02546, Page 53 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.

(9) INSERT a new 2nd PARAGRAPH to the end of DECLARATION ARTICLE V, SECTION A, entitled "General." Said new addition, to be added on Page 21 of the Declaration, as recorded at Cuyahoga County Records Volume 95-02546, Page 53 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.

(10) INSERT a new 2nd PARAGRAPH to the end of BYLAWS ARTICLE IV, SECTION 4, entitled "Special Services." Said new addition, to be added on Page 13 of the Bylaws, Exhibit "B" of the Declaration, as recorded at Cuyahoga County Records Volume 95-02546, Page 53 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.

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(11) DELETE DECLARATION ARTICLE XVI, SECTION (C), entitled "Names of Owners and Occupants of Units," in its entirety. Said deletion is to be made on Page 47 of the Declaration, as recorded at Cuyahoga County Records Volume 95-02546, Page 53 et seq.

INSERT a new DECLARATION ARTICLE XVI, SECTION (C), entitled "Owner/Resident Information." Said addition, to be made on Page 47 of the Declaration, as recorded at Cuyahoga County Records Volume 95-02546, Page 53 et seq., is as follows:

(C) 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.

(12) INSERT a new 2nd SENTENCE to the end of BYLAWS ARTICLE II, SECTION 7, entitled "Regular Meetings." Said new addition, to be added on Page 6 of the Bylaws, Exhibit "B" of the Declaration, as recorded at Cuyahoga County Records Volume 95-02546, Page 53 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.

(13) INSERT a new SENTENCE to the end of BYLAWS ARTICLE V, SECTION 2, entitled "Preparation of Estimated Budget." Said new addition, to be added on Page 15 of the Bylaws, Exhibit "B" of the Declaration, as recorded at Cuyahoga County Records Volume 95-02546, Page 53 et seq., is as follows:

In accordance with Ohio Revised Code Section 5311.21, in the alternative, if the Association has collected a Common Surplus at the end of any fiscal year, the Board may determine that such amount will be applied toward reserves.

(14) INSERT a new PARAGRAPH (i) to BYLAWS ARTICLE II, SECTION 10, entitled "Powers and Duties," and INSERT new SUBPARAGRAPHS (i), (ii) and (iii), thereafter. Said new additions to be added on Page 8 of the Bylaws, Exhibit "B" of the Declaration, as recorded at Cuyahoga County Records Volume 95-02546, Page 53 et seq., is as follows:

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(i) 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) 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;

(ii) Grant leases, licenses, and concessions through or over the Common Elements;

(iii) Invest excess funds in investments that meet standards for fiduciary investments under Ohio law.

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 Macintosh Farms Condominium No. 2 Owners' Association, Inc. has caused the execution of this instrument this 21st day of July, 2005.

MACINTOSH FARMS CONDOMINIUM NO. 2 OWNERS' ASSOCIATION, INC.

By: John Barona
JOHN BARONA, its President

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STATE OF OHIO)
)
COUNTY OF ^{SUMMIT} ~~CUYAHOGA~~) SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named Macintosh Farms Condominium No. 2 Owners' Association, Inc., by John Baraona, its President, who acknowledged that he did sign the foregoing instrument, on Page 6 of 7, and that the same is the free act and deed of said corporation and the free act and deed of him personally and as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in Sagamore Hills, Ohio, this 21st day of July, 2005.

Nancy Anne Wargo
NOTARY PUBLIC

NANCY ANNE WARGO
Notary Public, State of Ohio
My Commission Expires May 5, 2006
Recorded in Summit County

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

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