

Electronically
FILED

by Superior Court of California, County of San Mateo

ON 9/14/2020

By /s/ Wai Shan Lee
Deputy Clerk

LAW OFFICES OF KEVIN D. FREDERICK
Kevin D. Frederick (CSB # 83431)
605 Middlefield Road
Redwood City CA 94063-1625
PHONE: (650) 365-9800
FAX: (650) 365-4206

Attorney for Petitioner

SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

(UNLIMITED JURISDICTION)

In the Matter of)	Case No.: 20-CIV-03926
BAYVIEW CONDOMINIUM)	
ASSOCIATION,)	DECLARATION OF KEVIN D.
a California nonprofit corporation,)	FREDERICK
)	
Petitioner.)	
)	
)	

I, KEVIN D. FREDERICK, declare as follows:

1. I am the attorney for Petitioner, BAYVIEW CONDOMINIUM ASSOCIATION, INC.
2. I am also the inspector of elections.
3. There are ninety-five (95) Condominiums in the Association. I obtained the names and addresses of all fifty-six (56) of the holders of first mortgage liens on the condominiums in the Association from Advanced Title Research, a reputable title company. There are no other deeds of trust encumbering the other thirty-nine (39) Condominiums in the Association.
4. On December 4, 2019, I mailed the Amended and Restated Declaration, a written consent form (hereafter, "Consent Form"), and return envelopes to each holder of first mortgage liens on individual condominiums (hereafter, "Lenders") identified by title search. By cover letter, I notified the Lenders they had thirty (30) days to respond.

DECLARATION OF KEVIN D. FREDERICK

- 1 5. A true and correct copies of the Consent Form is attached hereto as Exhibit "1".
- 2 6. On January 6, 2020, I opened and counted the consent forms of the 56 lenders to whom
- 3 notices were sent; 34 consented, which constitutes a majority but not 75%.
- 4 7. The Restated Declaration does not violate Civil Code section 4275(e). The Amended and
- 5 Restated Declaration (1) does not change the two-class voting structure; (2) does not
- 6 eliminate any special rights, preferences, or privileges designated in the Declaration as
- 7 belonging to the declarant without the consent of the declaration; and (3) does not impair
- 8 the security interest of any mortgage or deed of trust encumbering any Condominium in
- 9 the Association. The security interest of mortgages and/or deed of trust beneficiaries will
- 10 remain unchanged.
- 11
- 12
- 13 8. The original Declaration was recorded in 1975. Since then, the legislature has completely
- 14 rewritten the Davis Stirling Act Civil Code sections 4000 et. seq. and the FHA and VA
- 15 have completely rewritten their loan underwriting requirements, effectively making the
- 16 old Declaration obsolete. The proposed Restated Declaration addresses those problems.
- 17
- 18 It benefits the Lenders. (See Article XIV of the Amended and Restated Declaration.)

19 I declare under penalty of perjury under the laws of the State of California, that

20 the foregoing is true and correct.

21 Executed on September 14, 2020 at Redwood City, California.

22

23

24 By 
KEVIN D. FREDERICK
Attorney for Petitioner/Association

25

26

27

28

EXHIBIT 1

**Bayview Homeowners Association
Consent/Opposition
to Restated Declaration**

Unit #: _____

I acknowledge receipt of a copy of the proposed Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Bayview Homeowners Association.

With respect to the adoption of the Restated Declaration, the below stated beneficiary a first deed of trust encumbering a Condominium in the Association hereby:

☐

Consents

☐

Opposes

Dated: _____, 2019

Name of bank

by _____

its _____