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BUTLER COUNTY, OHIO
DANNY N CRANK
12-12-2005 At 02:30:24 pm.
DECLARATION 84.00
OR Book 7671 Page 2266 - 2274

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SEVENTH AMENDMENT
TO THE DECLARATION OF CONDOMINIUM OWNERSHIP
FOR
THE LOFTS AT WETHERINGTON CONDOMINIUM
AND BY-LAWS OF
THE LOFTS AT WETHERINGTON CONDOMINIUM UNIT OWNERS'
ASSOCIATION, INC.

WHEREAS, the Declaration of Condominium Ownership for The Lofts at Wetherington Condominium (the "Declaration") was recorded on January 14, 2000 in Book 6441, page 972 of the Official Records of Butler County, Ohio; and

WHEREAS, the By-Laws of The Lofts at Wetherington Condominium Unit Owners' Association (the "By-Laws") were recorded on January 14, 2000 in Book 6441, page 1024 of the Official Records of Butler County, Ohio; and

WHEREAS, the First Amendment to the Declaration was recorded on May 8, 2000 at Book 6472, page 1519 of the Official Records of Butler County, Ohio; and

WHEREAS, the Second Amendment to the Declaration was recorded on October 18, 2000, at Book 6522, page 2353 of the Official Records of Butler County, Ohio; and

WHEREAS, the Third Amendment to the Declaration was recorded on January 8, 2001 at Book 6547, page 609 of the Official Records of Butler County, Ohio; and

WHEREAS, the Fourth Amendment to the Declaration was recorded on April 11, 2003 at Book 7063, page 631 of the Official Records of Butler County, Ohio; and

WHEREAS, the Fifth Amendment to the Declaration was recorded on November 21, 2003 at Book 7266, page 1124 of the Official Records of Butler County, Ohio; and

WHEREAS, the Sixth Amendment to the Declaration was recorded on April 6, 2004 at Book 7339, page 953 of the Official Records of Butler County, Ohio; and

WHEREAS, the Declaration, By-Laws and all amendments thereto are binding on all owners of the properties described in Exhibit "A", attached hereto;

WHEREAS, The Lofts at Wetherington Condominium Unit Owners' Association, Inc. (the "Association") is an Ohio non-profit corporation, whose members are all of the Unit Owners of Units in The Lofts at Wetherington Condominium and, as such, the Association is the representative of all Unit Owners;

WHEREAS, the Association wishes to amend the provisions of both the Declaration and the By-Laws in accordance with recent amendments to Chapter 5311 of the Ohio Revised Code effective July 20, 2004 and with the authority of O.R.C. 5311.05(E)(1) in order to "bring the Declaration in compliance" with Chapter 5311;

TRANSFER NOT NECESSARY

KAY ROGERS

BY 12-12-05 WS DEPT.
AUDITOR BUTLER CO. OHIO



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WHEREAS, this Amendment has received the affirmative vote of at least a majority of the Board of Directors of the Association and, pursuant to O.R.C. 5311.05(E)(1), a vote of the Unit Owners is not necessary;

WHEREAS, this Seventh Amendment is binding upon the properties described in Exhibit A;

NOW THEREFORE, the Declaration and By-Laws are hereby amended by the Board of Directors, as follows:

1. All references in the Declaration and By-Laws 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 By-Laws to the term "Limited Common Areas" or "Limited Common Areas and Facilities" shall be replaced with the term "Limited Common Elements".
3. Article XVIII, Section 18.01 of the Declaration is hereby deleted and the following substituted in its place:

Section 18.01 Service of Process. The person to receive service of process for the Association shall be designated by the Board. This designation may be accomplished by filing with the Secretary of State an appropriate change of statutory agent designation.

4. The following shall be added to the end of Article XIII, Section 13.05 of the Declaration:

However, no Unit Owner shall be prohibited from the placement of a flagpole that is to be used for the purpose of displaying, or shall prohibit the display of, the flag of the United States on or within the Limited Common Elements of a Unit Owner or on the immediately adjacent exterior of the building in which the Unit of a Unit Owner is located, if the flag is displayed in accordance with any of the following:

- (a) The patriotic customs set forth in 4 U.S.C.A. 5-10, as amended, governing the display and use of the flag of the United States;
- (b) The recommended flagpole standards set forth in "Our Flag," published pursuant to S.C.R. 61 of the 105th Congress, 1st Session (1998);
- (c) Any federal law, proclamation of the President of the United States or the governor, section of the Revised Code, or local ordinance or resolution.

To the extent that the first paragraph of this Section conflicts with the second paragraph, the terms of the first paragraph shall be unenforceable.



5. The following shall be added to the end of Article XIII Section 13.11 of the Declaration:

Subject to rules the Board of Directors adopts pursuant to Section 5311.081(B)(5) of the Ohio Revised Code, the Board may authorize the use of Limited Common Elements, as distinguished from the Common Elements, for the construction of open, unenclosed patios, hedges, decks, fences, or similar improvements provided that the improvements are maintained and insured by the Owner of the Unit to which the Limited Common Element is appurtenant. The construction of an addition to or an expansion of a Unit into Limited Common Elements or Common Elements may not be authorized without the consent of all Unit Owners.

6. The following shall be added as Article X, Section 10.06 of the Declaration:

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 alien against that Unit.

7. The following shall be added as Article X, Section 10.7 of the Declaration:

Violations of the covenants, conditions, or restrictions shall be grounds for the Association or any Unit Owner to commence a civil action for damages, injunctive relief, or both, and an award of court costs and reasonable attorneys fees in both types of action.

8. The following shall be added to Article XIII, Section 13.22 of the Declaration:

Section 13.22 Charge for Damages or Enforcement Assessment. The Board shall have the authority to impose reasonable Enforcement Assessments for violations of the Declaration, the By-Laws, and the rules of the Association and reasonable Charges for Damage to the Common Elements or other property.

Prior to imposing a Charge for Damages or an Enforcement Assessment pursuant to this Section, the Board of Directors shall give the Unit Owner a written notice that includes all of the following:

- (a) A description of the property damage or violation;
- (b) The amount of the proposed Charge or Assessment,
- (c) A statement that the Owner has a right to a hearing before the Board of Directors to contest the proposed Charge or Assessment;
- (d) A statement setting forth the procedures to request a hearing pursuant to this Section.



To request a hearing, an Owner shall deliver a written notice to the Board of Directors not later than the tenth day after receiving the notice from the Board required by this Section. If the Owner fails to make a timely request for a hearing, the right to that hearing is waived, and the Board may immediately impose a Charge for Damages or an Enforcement Assessment pursuant to this Section.

If a Unit Owner requests a hearing, at least seven days prior to the hearing, the Board of Directors shall provide the Unit Owner with a written notice that includes the date, time, and location of the hearing.

The Board of Directors shall not levy a Charge or Assessment before holding any hearing requested pursuant to this Section.

The Unit Owners, through the Board of Directors, may allow a reasonable time to cure a violation described in this Section before imposing a Charge or Assessment.

Within thirty days following a hearing at which the Board of Directors imposes a Charge or Assessment, the Association shall deliver a written notice of the Charge or Assessment to the Unit Owner.

Any written notice that this Section requires shall be delivered to the Unit Owner or any occupant of the Unit by personal delivery, by certified mail, return receipt requested, or by regular mail.

9. The following shall be added as Article XIII, Section 13.23 of the Declaration:

Section 13.23 Information to be provided. Within thirty (30) days after a Unit Owner obtains a condominium ownership interest or within thirty (30) days of the date of recording of this Amendment, the Unit Owner shall provide the following information in writing to the Association through the Board of Directors:

- (a) The home address, home and business mailing addresses, and the home and business telephone numbers of the Unit Owner and all occupants of the Unit;
- (b) The name, business address, and business telephone number of any person who manages the Owner's Unit as an agent of that Owner.

Within thirty (30) days after a change in any information required to be provided herein, a Unit Owner shall notify the Association, through the Board of Directors, in writing of the change. When the Board of Directors requests, a Unit Owner shall verify or update the information.

10. The following shall be added to Article XII, Section 12.4 of the Declaration:

The Board of Directors shall adopt and amend a budget for revenues, expenditures, and reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments, provided that the amount set aside annually for reserves shall not be less than ten percent (10%) of the budget for that



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year unless the reserve requirement is waived annually by the Unit Owners exercising not less than a majority of the voting power of the Association.

11. The following shall be added to Article XII, Section 12.06 of the Declaration:

The Association has the authority to include in its lien any unpaid interest, administrative late fees, Enforcement Assessments, collection costs, attorney's fees, and paralegal fees.

12. The following shall be added as Article XII, Section 12.15 of the Declaration:

Section 12.15 Application of Assessments. The Association shall credit payments made by a Unit owner in the following order of priority:

- (a) First, to interest owed to the Association;
- (b) Second, to administrative late fees owed to the Association;
- (c) Third, to collection costs, attorney's fees, and paralegal fees incurred by the Association; and
- (d) Fourth, to the principal amounts the Unit owner owes to the Association for the common expenses or enforcement assessments chargeable against the Unit.

13. The following shall be added as Article VI, Section 6.07 of the Declaration:

Section 6.07 Purchase of Real Property. The Association may purchase, hold title to, and sell real property that is not declared to be part of the Condominium Property with the approval of the Unit Owners who exercise not less than seventy-five percent (75%) of the voting power of the Association and the authorization of the Board of Directors. Expenses incurred in connection with any such transaction are Common Expenses.

14. The following shall be added to Article VI, Sections 5 and 6 of the By-Laws:

A meeting of the Board of Directors may be held by any method of communication, including electronic or telephonic communication, provided that each member of the Board can hear, participate, and respond to every other member of the Board.

15. The following shall be added to Article VII, Section 1 of the By-Laws:

The rules and regulations may regulate the use or occupancy of Units; regulate the maintenance, repair, replacement, modification, and appearance of Units, Common Elements, and Limited Common Elements when the actions regulated by the rules affect Common Elements or other Units; adopt standards governing the type and nature of information and documents that are subject to examination and copying by Unit Owners, including the times and locations at which items may be examined or copied and any required fee for copying the information or documents; and regulate the collection of delinquent assessments and the application of payments of delinquent assessments.



16. Article XI, Section 3 of the By-Laws is hereby added:

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The Association is not required to permit the examination and copying of any of the following from books, records, and minutes:

- (a) Information that pertains to condominium property-related personnel matters;
- (b) Communications with legal counsel or attorney work product pertaining to pending litigation or other condominium property-related matters;
- (c) Information that pertains to contracts or transactions currently under negotiation, or information that is contained in a contract or other agreement containing confidentiality requirements and that is subject to those requirements;
- (d) Information that relates to the enforcement of the Declaration, By-Laws, or rules of the Association against Unit Owners;
- (e) Information, the disclosure of which is prohibited by state or federal law.

The Board shall mail a statement of the amount of any delinquent assessment or other outstanding charge to a Unit Owner within ten (10) days of receipt by the Board of a written request from the Unit Owner for such a statement.

17. The following shall be added as Article VII, Section 6 of the By-Laws:

Section 6. Authority of the Board. In addition to the powers enumerated herein, the Board of Directors may exercise all powers of the Association, including the power to do the following:

- (a) Hire and fire managing agents, attorneys, accountants, and other independent contractors and employees that the Board determines are necessary or desirable in the management of the Condominium Property and the Association;
- (b) 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 of Directors, or the Condominium Property, or that involves two or more Unit Owners and relates to matters affecting the Condominium Property;
- (c) Enter into contracts and incur liabilities relating to the operation of the Condominium Property;
- (d) Regulate the use, maintenance, repair, replacement, modification, and appearance of the Condominium Property;
- (e) Cause additional improvements to be made as part of the Common Elements;
- (f) Purchase, encumber, and convey Units, and, subject to any restrictions in this



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Declaration or By-Laws and with the approvals required by Section 6.07 of the Declaration, acquire an interest in other real property and encumber or convey that interest. All expenses incurred in connection with the acquisition, encumbrance, use, and operation of that interest are Common Expenses;

- (g) Acquire, encumber, and convey or otherwise transfer personal property;
- (h) Hold in the name of the Association the real property and personal property acquired pursuant to Article VII, Section 6(f) and 6(g) of the By-Laws;
- (i) Grant easements, leases, licenses, and concessions through or over the Common Elements;
- (j) Impose and collect fees or other charges for the use, rental, or operation of the Common Elements or for services provided to Unit Owners;
- (k) Impose interest and late charges for the late payment of assessments; impose returned check charges; and impose Enforcement Assessments for violations of the Declaration, the By-Laws, and the rules of the Association and reasonable Charges for Damage to the Common Elements or other property;
- (l) Impose reasonable charges for preparing, recording, or copying amendments to the Declaration, resale certificates, or statements of unpaid assessments;
- (m) Purchase insurance and fidelity bonds the Directors consider appropriate or necessary;
- (n) Invest excess funds in investments that meet standards for fiduciary investments under Ohio law;
- (o) Exercise powers that are conferred by the Declaration or the By-Laws of the Association or the Board of Directors, permitted to be exercised in this state by a not-for-profit corporation, or which are necessary and proper for the government and operation of the Association.
- (p) Suspend the voting privileges and use of recreational facilities of an Owner or Occupant who is delinquent in the payment of assessments for more than thirty (30) days;
- (q) Upon determination that the Association has collected a Common Surplus at the end of any Fiscal year, apply such amount toward reserves.
- (r) Exercise powers that are:
 - (i) Conferred by the Declaration or the By-Laws of the Association or the Board of Directors;
 - (ii) Permitted to be exercised in the State of Ohio by a not-for-profit corporation;



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- (iii) Necessary and proper for the government and operation of the Association.

As amended herein, the Declaration and all amendments thereto remain in full force and effect.

IN WITNESS WHEREOF, The Lofts at Wetherington Condominium Unit Owners' Association, Inc., by and through its President, JANE STAUBITZ, has executed this Amendment this 29 day of November, 2005.

**THE LOFTS AT WETHERINGTON
CONDOMINIUM UNIT OWNERS'
ASSOCIATION, INC.
An Ohio non-profit corporation**

By: Jane Staubitz
Its: President

STATE OF OHIO)
)SS:
COUNTY OF HAMILTON)

The foregoing Seventh Amendment to the Declaration of Condominium Ownership for The Lofts at Wetherington Condominium was sworn to and subscribed before me by JANE STAUBITZ President of The Lofts at Wetherington Condominium Unit Owners' Association, Inc., an Ohio non-profit corporation, by and on behalf of the Association on the 29 day of November 2005.

NOTARY PUBLIC

Carol A. Combs

This Instrument Prepared by:
Amy Schott Ferguson, Esq.
CUNI, FERGUSON & LEVAY CO., L.P.A.
10655 Springfield Pike
Cincinnati, Ohio 45215
(513)771-6768

CAROL ANN COMBS
Notary Public, State of Ohio
My Commission Expires Sept. 4, 2006



Exhibit A
Legal Description of all Units

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Situated in Section 18, Town 3, Entire Range 2, West Chester/Union Township, Butler County, Ohio, and being Units 1A through 1H; 2A-2H; 3A-3H, 4A-4H; 5A-5H; 6A-6H; and Building G, Units 1A-1F; 2A-2F; 3A-3F; 4A-4F; 5A-5F; 6A-6D inclusive, of The Lofts at Wetherington Condominium, Phase 1 recorded at Plat Volume 3113, pages A,B of the Butler County Recorder's Office.

Situated in Section 18, Town 3, Entire Range 2, West Chester/Union Township, Butler County, Ohio, and being Units 7A through 7H; 8A-8H and Building G, Units 7A-7F; 8A-8F inclusive, of The Lofts at Wetherington Condominium, Phase 2 recorded at Plat Volume 3162, pages A,B of the Butler County Recorder's Office.

Situated in Section 18, Town 3, Entire Range 2, West Chester/Union Township, Butler County, Ohio, and being Units 9A through 9H; 10A-10H and Building G, Units 9A-9F inclusive, of The Lofts at Wetherington Condominium, Phase 3 recorded at Plat Volume 3215, pages A,B of the Butler County Recorder's Office.

Situated in Section 18, Town 3, Entire Range 2, West Chester/Union Township, Butler County, Ohio, and being Units 11A through 11H; 12A-12H and Building G, Units 11A-11F; 2A-2F inclusive, of The Lofts at Wetherington Condominium, Phase 4 recorded at Plat Volume 3247, pages A,B of the Butler County Recorder's Office.

Situated in Section 18, Town 3, Entire Range 2, West Chester/Union Township, Butler County, Ohio, and being Building G, Units 12A-12F inclusive, of The Lofts at Wetherington Condominium, Phase 5 recorded at Plat Volume 3522, pages A,B of the Butler County Recorder's Office.

Situated in Section 18, Town 3, Entire Range 2, West Chester/Union Township, Butler County, Ohio, and being Building G, Units 13A through 13F inclusive, of The Lofts at Wetherington Condominium, Phase 6 recorded at Plat Volume 3617, pages A,B of the Butler County Recorder's Office.

Situated in Section 18, Town 3, Entire Range 2, West Chester/Union Township, Butler County, Ohio, and being Units 13A through 13H; 14A-14H and Building G, Units 10A-10F inclusive, of The Lofts as Wetherington Condominium, Phase 7 recorded at Plat Volume 3671, pages A,B,C of the Butler County Recorder's Office.