Helanie Arthur 37P CARTERET COUNTY IL Date 02/20/2004 Time 08:48:00 GR 1040481 Page 1 of 37

NORTH CAROLINA: CARTERET COUNTY
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AMENDMENT
TO
DECLARATION
OF
UNIT OWNERSHIP
FOR
OAK BLUFF AT
BRANDYWINE BAY
CONDOMINIUMS

Prepared by Harris Law Pirm, PLLC

BOOK /040 PAGE 4/8/

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STATE OF NORTH CAROLINA COUNTY OF CARTERET

AMENDMENT TO DECLARATION OF OWNERSHIP FOR OAK BLUFF AT BRANDYWINE BAY CONDOMINIUMS

THIS AMENDMENT TO DECLARATION, is made this the 19th day of 100 Ct. 2001, by OAK BLUFF AT BRANDY WINE BAY OWNERS' ASSOCIATION, INC., a North Carolina non-profit corporation, and the OWNERS of Units in Oak Bluff at Brandy wine Bay Condominiums whose names and signatures appear on the "Signature Page" of this instrument.

#### STATEMENT OF PURPOSE

By that certain Declaration of Ownership recorded in Deed Book UO-3, Page 218, Carteret County Registry, (hereinalter referred to as the 'Declaration'), Brandywine Bay Development Corporation created a condominium community known as "Oak Blutt at Brandywine Bay Condominiums" located in Morehead Township, Carteret County, North Carolina, (hereinafter referred to as the "Condominium"). The owners whose signatures are attached to this instrument desire to amend the Declaration and combined own at least a seventy five percent (75.00%) interest in the Common Elements of the Condominium as required under Paragraph 18 of the Declaration.

NOW THEREFORE, in consideration of the Premises and the benefits to derived therefrom the undersigned do hereby agree to, and do amend the Declaration as follows:

Paragraph 9(A) through (D) shall be revised to read as follows:

"9. Covenant for Assessments.

(A) <u>Creation of Lien and Personal Obligation for Assessments.</u> Except as hereinafter specifically provided, each Owner of any Dwelling Unit, by the acceptance of title thereto, shall be deemed to covenant and agree to pay to the Unit Owner's Association assessments as outlined in this Declaration. The assessments may be classified as (A) Regular for (1) operation, maintenance, repair, replacement and improvement of Common Elements, (2) maintenance and repair of premises of an Owner(s), (3) Insurance and other purposes, and (B) Special for (1) capital improvements to Common Elements and (2) maintenance, repair or improvements of the premises of an Owner(s), (3) other purposes. These assessments are to be fixed, established and collected from time to time as hereinafter provided.

The Regular and Special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

- (B) Purpose of Assessment: The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents in the Properties and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Elements. Without limitation, such uses shall include satisfaction of the Association's obligations regarding the Common Elements to pay hazard and liability insurance, ad valorem taxes, the payment to governmental assessments for public and private capital improvements made to or for the benefit thereof, the repair, replacements and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.
- (C) Basis for Computing Assessments. The Board of Directors shall categorize the purposes for which it makes assessments so that each purpose will be one that is charged in the same amount based on interest in the Common Elements to each Owner, except as to that portion of the assessment which is attributable to insurance policies required to be provided by the Unit Owner's Association under Paragraph 19 below.

In regards to assessing the costs for the maintenance of those insurance policies required to be provided by the Unit Owner's Association under Paragraph 19 below, the Board of Directors shall assess each Owner based on the portion to which such insurance costs are attributable to the Owner's Dwelling Unit. In cases where insurance costs are charged on a building by building basis, the costs for such insurance shall be allocated amongst those Dwelling Units within the building pro rate based on each Dwelling Units square footage. To the extent that insurance costs cannot be allocated to an Owner's Dwelling Unit or building, the costs for said insurance shall be borne equally by each Owner'in proportion to the number of Dwelling Units benefited by the insurance policy.

(D) Maximum Increase in Regular Assessment. The maximum increase in a regular assessment for operation, maintenance, repair, replacement and improvement of Common Elements, excluding the costs of insurance required to be maintained by the Unit Owner's Association under Paragraph 19 below, shall be no more than Five Percent (5.00%) above the regular assessment for that item during the previous year unless otherwise approved by two-thirds (2/3rds) of the Members voting based on their interest in the Common Elements, either in person or by proxy at a meeting duly called for this purpose."

Paragraph 14(A)(i) of the Declaration shall be revised to read us follows:

"(i) Casualty or physical damage insurance shall be carried in an amount equal to the full replacement value (i.e., 90% of the full "replacement costs") of the Condominium Property, exclusive of excavations and foundations, with a replacement cost endorsement and an inflation guard endorsement or an annual review clause, without deduction or allowance for depreciation (as determined annually by the Board of Directors of the Unit Owner's Association with the assistance of the insurance company affording such coverage), such coverage to afford protection against at least the following: (a) loss or

damage by fire or other bazards covered by the standard extended coverage endorsement together with coverage for common expenses with respect to condominium units during any period of repair or reconstruction; and (b) such other risks as from time to time customoarily shall be covered with respect to buildings similar to the Buildings in construction, location and use, including, but not limited to, vandalism, maliclous mischief, windstorm and water or flood (if available) damage, subject to such deductible amounts as the Board of Directors shall determine. All Casualty Insuarance policies shall be purchased by the Unit Owner's Association for the benefit of the Unit Owners's Association, the Unit Owners and their respective mortgages, as their interests may appear and shall provide (1) for the issuance of certificates of insurance with mortgagee endorsements to the holders of mortgages on the Units, if any, and (2) that the insurer waives its rights of subrogation against Unit Owners, Occupants and the Unit Owner's Association. All Casualty Insurance Policies shall provide that all proceeds payable as a result of casualty losses shall be paid to the Board of Directors as trustee for each of the Unit Owners as their interest may appear for the purposes elsewhere stated herein, and for the benefit of the Unit Owner's Association, the Unit Owners and their respective mortgages, if any."

in all other regards, the Declaration shall remain as originally recorded in Deed Book UO-3, Page 218, Carteret County Registry.

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#### STATE OF NORTH CAROLINA COUNTY OF CARTERET

I, Denise Lewis, a Notary Public of the aforesaid County and State, do hereby certify that KIMBERLY ANN RAINES, personally came before me this day and acknowledged she is secretary of OAK BLUFF AT BRANDYWINE BAY OWNERS ASSOCIATION, INC., a North Carolina non-profit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its president and attested by her as its secretary.

WITNESS my hand and official stamp or seal, this the 19th day of February, 2004.

DENISE LEWIS NOTARY PUBLIC CARTERET COUNTY, N. C.

NOTARY PUBLIC

My Commission Expires: October 30, 2005

FOOK 1080 PAGE 481 ...

Unit 197 STATE OF NORTH CAROLINA COUNTY OF CARTERET I, Denise Lewis, a Notary Public of the aforesaid County and State, do hereby certify that JEAN A. STAUB personally came before me this day and acknowledged the due execution of the foregoing instrument. WITNESS my hand and official stamp or seal, this the 14th day of April DENISE LEWIS ANDTARY PUBLIC CARTERET COUNTY, N. C. My Commission Expires: October 30, 2005 STATE OF NORTH CAROLINA Unit 158 COUNTY OF CARTERET I, Denise Lowis, a Notary Public of the aforesaid County and State, do hereby certify that Marguerite J. Dixon personally came before me this day and acknowledged the due execution of the foregoing instrument, WITNESS my hand and official stamp or seal, this the 19th day of April 2003. CEWISE LEWIS PUSHUY PUBLIC CARTERET COUNTY, N. C. October 30, 2005 My Commission Expires; STATE OF NORTH CAROLINA Unit 194 COUNTY OF CARTERET I, Denise Lewis, a Notary Public of the aforesaid County and State, do hereby certify that Margaret M. Marcus personally came before me this day and acknowledged the due execution of the foregoing instrument. WITNESS my hand and official stamp or seal, this the 10th day of April 2003. DENISE LEWIS WOTARY PUBLIC CARTERET COUNTY, N. C.

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My Commission Expires:

STATE OF NORTH CAROLINA	٩
COUNTY OF CARTERET	

Unit 157

It Denise Lewis, a Notary Public of the aforesaid County and State, do hereby certify that Emma Brooks personally came before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official stamp or seal, this the | 19th day of | Apr. 1 , 2003.

CENISE LEWIS | WILL | 1014

CARTERST COUNTY, N. C. | NOTARY PUBLIC

My Commission Expires:

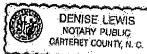
October 30, 2005

STATE OF NORTH CAROLINA COUNTY OF CARTERET

Unit 111

I, Denise Lewis, a Notary Public of the aforesaid County and State, do hereby certify that Leonard Outtinger personally came before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official stamp or seal, this the 19th day of April 2003.



NOTARY PUBLIC COM

My Commission Expires: October 30, 2005

STATE OF NORTH CAROLINA COUNTY OF CARTERET

Unit 125

I Denise Lewis, a Notary Public of the aforesaid County and State, do hereby certify that Carolyn D. Booth personally came before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official stamp or seal, this the 30th day of April 2003:

DENISE LEWIS NOTARY PUBLIC CARTERET COUNTY, N. C. NOTARY PUBLIC YOUR

My Commission Expires:

October 30, 2005

COUNTY OF CARTERET	Unit 164
I. Denise Lewis, a Notary Public of the aforesaid County and State, do her personally came before me this day and acknowledged the due execution of the fore	going instrument.
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BOOK 1040 PAGE 481

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# OAK BLUFF AMENDMENT TO DECLARATION SIGNATURE PAGE

SIGNATURE PAGE

UNIT 155

Owner:

HUEY'S SEAFOOD, INC.

By:

HUEY'S SEAFOOD, INC.

By:

President

STATE OF NORTH CAROLINA

COUNTY OF ALAMANCE

I. The the season of the aforesaid County and State, do hereby certify that the season of the se

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and all Home	recard in	for change of Declaration surance as proposed in ature PAGE HOA in april, 2
- Estour	SIGN	ATUREPAGE HOA M april, 2
UNIT 156		a
	Signatures	Violette Musellane (SEAT)
	Print Name:	Violette N. Musallam.
	Signature:	Natil Y Musallan (SEAT)
	Print Name:	NABIL Y MUSALLAM
STATE OF North	Carolina	COUNTY OF CARTERET
I, MARTHA	A B. CROOKEYE	, a Notary Public of the State and County above, do her
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their due execution of the		
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<del></del>	BOOK 1040 PAGE 1/81

North Carolina

Wayne County

I, Elavne A. Khicaid, a Notary Public for said County and State, do hereby certify that

Chuck Allen personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official scal, this the 26th day of August, 2003.

Consent Stall)

Notary Public

Compassion expires 1-31-2007

SIGNATURE PAGE
UNIT 102 Oak Buf Signature: Barbara H. Bigguidaf (SEAL)
Print Name: Borboras H. Biggers tatiff
Signature: Round 1: Siggs 1 (SEAL)
Print Name: James N. Siggestall
STATE OF NOTIN CAROLINA COUNTY OF CARTERET
I. MARTHA & CIROOKER, a Notary Public of the State and County shows, do hereby
certify that Backstea H. + Tarnes N. Biggace to ff appeared before me this day and acknowledged trestre
their due execution of the foregoing instrument.
This the Ale day of December 2003.
My commission expires: 8/1/07  Notary Public  Notary Public  OUNTRIES

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		J. W	CC
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	Signature:	acoul Ly	L (SEAL)
	Print Name:	Huand Ci	Golfon_
STATE OF North	Carlina-	COUNTY OF	oberton
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BOOK 1040 PAGE 481.

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UNIT 172-	Signature:	Donis Buffett & Brown to 12
	Print Name:	Doris Buffett
		W. W. S. W. Blingham
	Signature:	N/A (SKAL)
Wernt.	Print Name:	Wednesday
STATE OF VIGINA	unca suca de una escada <del>territoria.</del>	COUNTY OF MEDICAL COUNTY OF ME
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their due execution of the forego	ing instrument.	Mhic
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	Signature	(Seals)
	Print Name:	AB 4990 17 A 1
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I		_, a Notary Public of the State and County above, do hereby
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their due execution of the forego	-	
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My commission expires:		Notary Public
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BOOK 1040 PAGE 4/8/

PAGE 61

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UNIT 173	Signature	Money EGGE (SEAL)
	Print Name:	MONEY EDGE
	Signature:	amy Edge (SEAL)
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COUNTY OF THE PROPERTY OF THE	June 1	11 / 2006
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U Biology and was a count	Signature: Print Name: Signature: Print Name:	
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STATE OF	Signature: Priot Name: Signature: Print Name:	(SEAL)  COUNTY OF  a Notary Public of the State and County above, for har appeared before me this day and acknowledge  , 2003.
STATE OF	Signature: Print Name: Signature: Print Name:	(SEAL)  COUNTY OF  a Notary Public of the State and County above, do her appeared before me this day and acknowledge  Notary Public

04/81/2003 22:38 12522478865 EMMA BROCKS

SIGNATURE PAGE Signature: Print Name: Signature: STATE OF NC I, J. POLEC a Notary Public of the State and County above, do hereby certify that av. Small Carole J. Subpersed before me this day and acknowledged their due execution of the foregoing instrument. This the 33 day of Dec , 2003. My commission expires: 4-16-08 UNIT Signatures Print Name: Signature: Print Name: STATE OF COUNTY OF, \_\_\_\_\_, a Notary Public of the State and County above, do hereby certify that \_appeared before me this day and aclaim ledged their due execution of the foregoing instrument. Notary Public My commission crpires: BOOK 040 PAGE 481

·		NATURE PAGE
UNIT 177 Drum Inlet	Signáthre:	The P Totagett (SEAL)
	Print Name:	DONU I IBMAZETII
	Signature:	Carpenia & Amartt (SEAL)
	Print Name:	Cartierine G. Tomasetti
STATE OF U.C.		COUNTY OF Wake
William Dto	سر يخد اد	a Notary Public of the State and County above, do hereby
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engridus execution of the farego	ing instrument.	The state of the s
19 1 2 1 2 1 2 1 2 1 2 1 2 1 2 1 2 1 2 1	day of Dec	senter, 2003.
1120	·	A. U. S. Winer
LAUBLY OF		/ Notary Public
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L certify that	ng instrument.	a Notary Public of the State and County above, do hereby appeared before me this day and acknowledged
L certify that the foregoing the foregonness that the foregoing the fore	ng instrument.	a Notary Public of the State and County above, do hereby appeared before me this day and acknowledged

# OAK BLUFF AMENDMENT TO DECLARATION SIGNATURE PAGE

UNIT 181

By: Harry Ly
RICHARD G. WARREN, by and through
his attorney-in-fact, CAROLYN L.
WARREN

By: Carolyn L. Shares

BOOK 1040 PAGE 481-

- 1100 I O1 I

NORTH CAROLINA
CARTERET COUNTY
I, Denise Lewis , a Notary Public for said County and State to hereby certify that CAROLYN L. WARREN, attorney in fact for RICHARD G. WARREN, personally appeared before me this day, and being by me duly sworn, says that he/she executed the foregoing and annexed instrument for and in behalf of the said RICHARD G. WARREN, and that his/her authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged, and recorded in the office of Register of Deeds in the County of Carteret, State of North Carolina, in Book 1038 Page 459 and that this instrument was executed under and by virtue of the authority given by said instrument granting him/her power of attorney.
I do further certify that the said CAROLYN L. WARREN acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the said RICHARD G. WARREN.
This the
CVALENCE COUNTY IN COUNTY OF PUBLIC PENIS
My commission expires: October 30, 2005
STATE OF NORTH CAROLINA
COUNTY OF CARTERET
I. <u>Denise Lewis</u> , a Notary Public of the aforesaid County and State, do hereby certify that CAROLYN L. WARREN, did personally appear before me this day and acknowledged her execution of the foregoing instrument.
This the 5th day of February 2004.  NOTARY PUBLIC
My Commission Expires: October 30, 2005

BOOK 1040 PAGE 481

DENISE LEWIS NOTARY PUBLIC CARTERET COUNTY, N. C.

	SIG	NATURE PAGE
UNIT # 183		
VALE Commission and the contract of the commission of the contract of the cont	Signature:	Habert & Born (SEAL)
	Print Name:	ROBERT B. BOOK
		1011157
	Signature:	SCAL)
	Print Name:	\$ B
STATE OF NOT-	Children - Hall Control of Analysis of the	COUNTY OF ACLICATION
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their due execution of the fo	regoing instrument.	months with the real sectors of the state of sentences and seeds at the sector of the
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UNIT		
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		BOOK /040 PAGE 4/8/
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	SIGN	NATUREPAGE
UNIF. 191	Signatures	(SEAL)
	Print Name:	LOUIS WEIL
	Signature: A	mariana P. Wel (SEAL)
	Print Name:	MARIANA P WEIL
STATE OF North	Carolina	COUNTY OF Carteret
certify that Louis N	eil and Mariana I	, a Notary Public of the State and County above, do hereby
their due execution of the		
This the <u>10t</u>	h day of Decen	lber , 2003.
•		DENIGRADIA CUAN
My commission expires:_	October 30, 2005	NOTARY PUBLIC CARTERET COUNTY, N. C.
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STATE OF		
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certify that		appeared before me this day and acknowledged
their due execution of the		
This the	day of	* 2003 <sub>*</sub>
My commission expires:		Notary Public
	Ç	1001 1040 PASE 481

	SIGNATURE PAGE  UNIT 193  V Signature: Sunder M Flankling  Print Name: Sundry M Flankling
1. Jr	Signature: (SEAL)  Print Name:  STATE OF NORTH (AKOCAM) COUNTY OF WAYNE
ν.	1. Litterale J Myles a Kotary Fublic of the State and County Amenda hereby cartify that Schools M. Floribles appeared before one this disciplified their due execution of the foregoing instrument.  This the 22 and day of January 2001.
	My commission expired fally 30 208  Notary Published County Indiana County Published County

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OFFICE SERVICES

PAGE 01

193	SIGNATURE PAGE.	$\left( \begin{array}{c} 1 \\ 1 \end{array} \right)$
in a comment of the property in the state of	Signature:	121 CO CO
	Print Name:	VKI P STE
	Signature: Jaco 9	appleasing
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UNIT 193		**************************************
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100	Signature: L.T. 200 Print Name: FTFLAW)	MALLONIN
100	Signature: 6,7,200	MAJORNA RALLINAN FORMINICAN
100	Signature: L. T. 20  Signature: JULE Signature	Carllings FICANICIA
ONIT 93	Signature: L. T. C. COUNTY OF	7000000A 7
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STATE OF WOOTH C	Signature: F. F. AW)  Signature: F. F. AW)  Signature: F. F. AW)  Signature: F. AW	7000000A 7

TT '.	SUMMARY OF UNITS APPROVING THE	AMENDMENT
<u>Unit</u>	TAMILEL.	Percentage Interest
111	Liconard Centinger	2.318
112	Wright Tisdale and wife, Susan Tisdale	2,649
113	G. Edward Gauss and wife. Betty Gauss	2.980
114	Robert Swindell and wife, Anne Swindell	2.318
121	Lawrence Twisdale and wife, Fran Twisdale	2,980
122	Mark C. Moler	2.152
123	Daniel Wise and wife, Martha Wise	2.483
124	Arthur Corkum and wife, Dorothy Corkum	2.152
125	Carolyn Boothe	2.483
132	Lynn Wellons	2.152
133	Thomas Howell and wife, Catherine Howell	2.152
134	Elliot Weil and wife, Tara Weil	2.483 2.483
141		2.102
143	Timothy Icard and Frank Dorman, Jr.	2.649
LM3	W.B. Ackiss and wife, Mary Ackiss	1.981
154	Charles Allen	1.821
155	Huey's Senfood, Inc.	2.152
156	Nabil Musallam and wife, Violette Musallam	1.656
157	Emma Brooks	1.821
158	Marguerite J. Dixon	2.152
161	Charles Allen	1.821
162	James Biggerstaff and wife, Barbara Biggerstaff	1.656
164	Patricia Pittman	2.152
171	Daulásia Alar	
172	Reginald Griffin and wife, Amanda Griffin	1.521
173	Doris Buffert	1.656
174	Monty Edge and wife, Amy Edge	1,821
	Dana McQueen	2.152
175	A. Vernon Small and wife, Carole Small	1.821
177	John P. Tomasetti and wife, Catherine Tomasett	i 1.821
181	Richard Warren and wife, Carolyn Warren	1.821
183	Robert Boone	1.821
		1,041
191	Louis Weil and wife, Mariana P. Weil	3.311
192	Sandra M. Franklin	2.483
1.93	E.T. Franklin, Jr. and wife, Jane Franklin	2.483
194	Margaret M. Marcus	2,815
197	Jean A. Staub	3.312
	Total:	78.332%

BOOK 1040 PAGE 481.

NORTH CAROLINA, CARTERET COUNTY
This instrument and this certificate are duly filed at
the date and time and in the Book and Page shown
on the first page hereof.

FILE # 1477304

FOR REGISTRATION REGISTER OF DEFDS
Joy Lawrence
Carteret County, NC

April 30, 2014 12:37:34 BWC ADMT 44 P

FILE # 1477304

1 KAW

STATE OF NORTH CAROLINA

COUNTY OF CARTERET

# AMENDMENT TO DECLARATION OF UNIT OWNERSHIP FOR OAK BLUFF AT BRANDYWINE BAY CONDOMINIUMS

This Amendment to Declaration is made this 30day of 7, 2014 by Oak Bluff at Brandywine Bay Owners' Association, Inc., a North Carolina non-profit corporation, and the owners of units in Oak Bluff at Brandywine Bay Condominiums whose names and signatures appear on each "Signature Page" of this instrument.

#### STATEMENT OF PURPOSE

By a certain Declaration of Unit Ownership recorded in Book UO-3, Page 218, Carteret County Registry (hereinafter referred to as the "Declaration"), Brandywine Bay Development Corporation created a condominium community known as "Oak Bluff at Brandywine Bay Condominiums" located in Morehead Township, Carteret County, North Carolina (hereinafter referred to as the "Condominium"). The Declaration has been amended including an "Amendment to Declaration of Unit Ownership for Oak Bluff at Brandywine Bay Condominiums" dated February 19, 2004 recorded in Book 1040, Page 481, Carteret County Registry which amendment is referred herein as the "February 2004 Amendment." The owners whose signatures are attached to this instrument desire to amend the Declaration and the February 2004 Amendment as provided herein and combined own at least a seventy five percent (75.00%) interest in the Common Elements of the Condominium as required under Paragraph 18 of the Declaration.

NOW THEREFORE, in consideration of the premises and the benefits to be derived therefrom the undersigned do agree to, and do amend the Declaration as follows:

#### Part I

Paragraph 14 of the Declaration [captioned "Insurance and Reconstruction"] is deleted in its entirety, and the text revision to Paragraph 14(A) (i) contained in the February 2004

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Amendment is deleted in its entirety. Substituted for the deleted provisions is the following which shall be deemed inserted in the place and stead of Paragraph 14 in the Declaration:

### 14. Insurance and Reconstruction.

A. <u>Definitions</u>. As used in this Paragraph 14, the following terms shall be defined as described. Other defined terms shall have the definitions contained in Paragraph 3 of the Declaration.

"Condominium Structures" shall mean and refer to all buildings and improvements, including Common Elements, Limited Common Elements, and Units, affixed to that land described on the drawings for "Oak Bluff at Brandywine Bay, a Condominium" recorded in Map Book 10A at pages 87 through 99 Carteret County Registry, excluding, however, Owner Betterments as hereafter defined. With the exception of Owner Betterments, Condominium Structures are buildings and improvements that would be considered real property under the common law. Units, except for any Owner Betterment contained therein, are included in the definition of Condominium Structure for purposes of the Unit Owner's Association's property insurance even though the units generally have vertical boundaries. Condominium Structures include improvements and betterments to common elements made by the Unit Owner's Association as opposed to an Owner.

"Owner Betterment" shall mean any upgrade or addition made to a Unit, Common Element or Limited Common Element by a Unit Owner that exceeds the replacement cost of the same item in the Basic Building Plans and Specifications (as defined below) or is an addition to the Unit. For purposes of the Unit Owner's Association's property insurance, an Owner Betterment is relevant only to the extent that its replacement cost exceeds the replacement cost of the same item or is an addition to the Unit. An example of an Owner Betterment would be a marble tile floor with a replacement cost of \$100.00 per square yard installed in a Unit by a Unit Owner in place of the carpeting shown as part of the Basic Building Plans and Specifications where the carpeting has a replacement cost of \$25.00 per square yard. If the Unit is totally destroyed by an insured casualty, the Unit Owner's Association's property insurance would cover the value of carpeting shown in the Basic Building Plans and Specifications but not the replacement cost of the marble tile.

"Basic Building Plans and Specifications" shall mean (a) the Drawings as defined in Paragraph 3 [captioned "Definitions"] of the Declaration, and the materials described in such Drawings as the drawings were amended when additional phases were added to Oak Bluff at Brandywine Bay Condominium, (b) the specifications as described in Paragraphs 5 and 6 of the Declaration and as may be described elsewhere in the Declaration, and (c) to the extent reasonably determinable, the original materials and finishes incorporated in the improvements to the land at the Condominium.

### B. <u>Association's Insurance</u>.

1. The Unit Owner's Association shall maintain, to the extent available:

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- (a) Property insurance on the Condominium Structures insuring against risks of direct physical loss commonly insured including fire, wind, and extended coverage perils. The total amount of property insurance shall be the full replacement cost of the Condominium Structures, if in the opinion of the Board of Directors, insurance in that amount is affordable; however, the total amount of property insurance after application of any deductibles shall be not less than ninety percent (90%) of the replacement cost of the Condominium Structures. The property insurance shall be subject to such deductibles as the board of directors deems appropriate.
- (b) Liability insurance in reasonable amounts, covering all occurrences commonly insured against death, bodily injury and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements. This liability insurance will cover only the liability of the Unit Owner's Association, and Unit Owners as members, but does not cover the Unit Owner's individual liability for his acts or omissions while on Common Elements, within Limited Common Elements, or within his Unit.<sup>1</sup>
- (c) Fidelity insurance coverage to protect against dishonest acts in the handling of Association money by the officers, directors, volunteers, managers or employees of the Association.
- (d) Such other insurance as the Board deems advisable from time to time.
- 2. If the insurance described in subparagraphs B. 1. (a) or (b) this Paragraph is not reasonably available, the Unit Owner's Association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Unit Owners.
  - 3. Insurance policies carried pursuant to subparagraph B. 1. must provide that:
  - (a) Each Unit Owner is an insured person under the policy with respect to liability arising out of his interest in the Common Elements or membership in the Unit Owner's Association;
  - (b) The insurer waives its right to subrogation under the policy against any Unit Owner or members of his household;
  - (c) No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Unit Owner's Association, will preclude recovery under the policy; and
  - (d) If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Unit Owner's Association's policy provides primary insurance.

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<sup>&</sup>lt;sup>1</sup> See Uniform Law Comment # 6 to N.C.G.S. §47C-3-113.

- 4. Any loss covered by the property policy under subparagraph B. 1. (a) shall be adjusted with the Unit Owner's Association, but the insurance proceeds for that loss shall be payable to the Unit Owner's Association as insurance trustee, and not to any mortgagee or beneficiary under a deed of trust. The Unit Owner's Association as insurance trustee shall hold any insurance proceeds in trust for Unit Owners and lienholders as their interests may appear. Subject to the provisions of subparagraph B. 6., the proceeds shall be disbursed first for the repair or restoration of the damaged property, and Unit Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the condominium is terminated. If there is a surplus of insurance proceeds after the property has been repaired or restored, all Unit Owners will share in any distribution of the surplus according to the formula used for assessing property insurance premiums. The Board may elect to credit the accounts of the Unit Owners rather than making an actual distribution.
- 5. An insurer that has issued an insurance policy under this subparagraph shall issue certificates or memoranda of insurance to the Unit Owner's Association and, upon written request, to any Unit Owner, mortgagee, or beneficiary under a deed of trust. The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the Unit Owner's Association, each Unit Owner and each mortgagee or beneficiary under a deed of trust to whom certificates or memoranda of insurance have been issued at their respective last known addresses.
- 6. Any portion of the condominium for which insurance is required under this subparagraph B which is damaged or destroyed shall be repaired or replaced promptly by the Unit Owner's Association unless (1) the condominium is terminated, (2) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (3) the Unit Owners decide not to rebuild by an eighty percent (80%) vote, including one hundred percent (100%) approval of owners of Units not to be rebuilt or owners assigned to limited common elements not to be rebuilt. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense and the Board will have the authority to levy one or more special assessments to provide the funds necessary to pay such costs. If the entire condominium is not repaired or replaced, (1) the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the condominium, (2) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the owners of those Units and the owners of the Units to which those Limited Common Elements were allocated or to lienholders, as their interest may appear, and (3) the remainder of the proceeds shall be distributed to all the Unit Owners or lienholders, as their interest may appear, in proportion to their Common Element interest. If the Unit Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated upon the vote as if the Unit had been condemned under N.C.G.S. §47C-1-107(a), and the Unit Owner's Association promptly shall prepare, execute, and record an amendment to the Declaration reflecting the reallocations. Notwithstanding the provisions of this subparagraph, N.C.G.S. §47C-2-118 governs the distribution of insurance proceeds if the condominium is terminated.



## C. Insurance Required of Unit Owners

- 1. Each Unit Owner is required to purchase, and at all times maintain, one or more insurance policies that cover the following:
  - (a) Dwelling coverage, sometimes known as "HO 6," on *Owner Betterments* within or appurtenant to his Unit in the full replacement cost thereof insuring against risks of direct physical loss commonly insured including fire, wind, extended coverage perils, and if the Owner chooses, flood. The dwelling coverage may be subject to a deductible not exceeding \$5,000.00 unless approved by the Board of Directors.
  - (b) Personal property coverage on the personal property in Owner's Unit insuring against risks of direct physical loss commonly insured including fire, wind, extended coverage perils, and if the Owner chooses, flood.
  - (c) Personal liability coverage in the amount of at least \$500,000.00 insuring the Unit Owner against lawsuits, legal expenses, and medical costs if he is legally responsible for injury or property damage to others in his Unit. From time to time the Board of Directors will have the authority to require all Unit Owners to maintain personal liability coverage exceeding \$500,000.00 if the Board determines such increased amount is advisable to adjust for inflation or exposure to risk.
- 2. No later than January 31 of each calendar year, each Unit Owner will file with the Unit Owner's Association proof of insurance specified in subparagraphs C.1. (a) ["dwelling coverage"] and (c) ["personal liability coverage"] in such form as required by the Board of Directors. If a Unit Owner shall fail to provide or maintain such insurance policies, or give proof of such insurance to the Association, the Board shall have the authority to purchase such policies in the name of the Unit Owner after giving such owner thirty calendar days notice of intent to purchase insurance by first class mail sent to the Unit Owner's last known address as shown in the Association's records. If the Board purchases such insurance, the cost thereof will be deemed a common expense assessment benefitting only the Unit Owner and his Unit under N.C.G.S. §47C-3-115(c) (2) and assessed against the Unit Owner and his Unit. Such assessment, and all costs of collection including attorneys fees, will be the personal obligation of the Unit Owner, constitute a lien on his Unit pursuant §47C-3-116, and be collectible according to §47C-3-116.

#### D. Assessment of Deductible; Intentional Damage.

1. <u>Assessment of Deductibles</u>. If a component of a Unit over which a Unit Owner has maintenance responsibility fails, and such failure causes damage to the Unit, other Units, and/or the Common Elements which damage is covered by the Association's property insurance, such Unit and the Unit Owner will be assessed the Association's insurance deductible if the Unit Owner was negligent in causing the damage.



- (a) If circumstances indicate to the satisfaction of the Board that a Unit Owner was not negligent, the deductible will be paid by the Association as a general common expense.
- (b) If there is probable cause to believe that a Unit Owner was negligent in causing the damage a hearing will be held by the Board of Directors to determine if the damage resulted from the Unit Owner's negligence or intentional act and, in either case, the entire deductible will be assessed to the Unit of the responsible Unit Owner and the Unit Owner. If the Board determines that the damage was not the result of the Unit Owner's negligence or intentional act, the deductible will be a general common expense. The Unit Owner will be given written notice of the hearing mailed by first class mail to the Unit Owner's last known address at least 14 days in advance of the hearing and the Unit Owner will have the right to be represented by an attorney at the hearing and to present evidence. The Unit Owner will be given a written decision by the Board.
- (c) An assessment of a deductible under this subparagraph will be deemed a common expense assessment benefitting only the Unit Owner and his Unit under N.C.G.S. §47C-3-115(c) (2) and assessed against the Unit Owner and his Unit. Such assessment, and all costs of collection including attorneys fees, will be the personal obligation of the Unit Owner, constitute a lien on his Unit pursuant §47C-3-116, and be collectible according to §47C-3-116.
- 2. <u>Association's Responsibility for Deductible</u>. If a component of a Common Element over which the Association has maintenance responsibility fails as a result of the negligence of the Association, and such failure causes damage to a Unit, and/or the Common Elements which damage is covered by the Association's property insurance, the Association will pay the deductible as a general common expense.
- 3. <u>Intentional Damage</u>. A Unit Owner is liable to the Association for all costs incurred by the Association in repairing uninsured damage caused by the intentional act of the Unit Owner and such costs will be assessed against the owner's Unit. Prior to making such an assessment, the Board will hold a hearing as provided in subparagraph D.1.b above. An assessment of a deductible under this subparagraph will be deemed a common expense assessment benefitting only the Unit Owner and his Unit under N.C.G.S. §47C-3-115(c) (2) and assessed against the Unit Owner and his Unit. Such assessment, and all costs of collection including attorneys fees, will be the personal obligation of the Unit Owner, constitute a lien on his Unit pursuant §47C-3-116, and be collectible according to §47C-3-116.
- 4. <u>Owner Responsibility</u>. The Unit Owner will be responsible for the acts of all persons in his Unit with his permission including his family members, guests, and tenants and their invitees.
  - E. General.

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- 1. The interpretation of this Paragraph will be consistent with N.C.G.S. §47C-3-113 unless such interpretation is clearly to the contrary of the provisions of this Paragraph 14.
- 2. As used herein the masculine, feminine and neuter genders are interchangeable and the singular includes the plural as required by context.

#### Part II

Except as amended above, the Declaration as said Declaration has been amended, and the February 2004 Amendment, shall remain in full force affect. This amendment is effective upon recording at the Carteret County Register of Deeds Office.

OAK BLUFF AT BRANDYWINE BAY OWNERS' ASSOCIATION, INC. Attest: Secretary State of North Carolina County of <u>Carteret</u> I, the undersigned Notary Public of the county and state aforesaid, certify that <u>P. Swin dell</u>, personally appeared before me this day and acknowledged President of Oak Bluff at Brandywine Bay Owners' Association, Inc., and that by authority duly given and as the act of said corporation, s/he signed the foregoing instrument in its name on its behalf as its act and deed. WITNESS my hand and official stamp or seal this. My Commission Expires:

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