



Book 2013 Page 12739

Document 12739 Type AMEND Pages 13
Date 7/09/2013 Time 12:42 PM
Rec Amt \$67.00

MTG -
PCRF Ym
BKRF -
ODD -
D/C -

Chad Althart, Recorder
Dallas County IOWA



**FIFTH AMENDMENT TO
DECLARATION OF SUBMISSION OF PROPERTY
TO HORIZONTAL PROPERTY REGIME
FOR
BELLA SOUTH CONDOMINIUMS**

Preparer Information:

David L. Wetsch
Wetsch Abbott & Osborn PLC
974 - 73rd Street, Suite 20
Des Moines, IA 50324
(515) 223-6000

Return Recorded Document to:

David L. Wetsch
Wetsch Abbott & Osborn PLC
974 - 73rd Street, Suite 20
Des Moines, IA 50324

Declarant:

Clearwater Land, L.L.C.

Legal Description: Lot 1, Bella South Plat 1, an Official Plat, now included in and forming a part of the City of West Des Moines, Dallas County, Iowa.

Document or instrument number if applicable: Book 2006, Page 7289; Book 2010, Page 714; Book 2011, Page 11463; Book 2012, Page 8004

**FIFTH AMENDMENT TO
DECLARATION OF SUBMISSION OF PROPERTY
TO HORIZONTAL PROPERTY REGIME
FOR
BELLA SOUTH CONDOMINIUMS**

This Fifth Amendment to Declaration of Submission of Property to Horizontal Property Regime for Bella South Condominiums is made this 4th day of March, 2013, by Clearwater Land, L.L.C. ("Declarant").

RECITALS

WHEREAS, a Declaration of Submission of Property to Horizontal Property Regime for Bella South Condominiums was filed May 3, 2006, in Book 2006, Page 7289, of the Dallas County records (the "Declaration"), by Bella South, L.L.C., the original "Declarant", as defined in the Declaration;

WHEREAS, Bella South, L.L.C., did quit claim and convey to Jordan Creek Condominiums, LLC a/k/a Jordan Creek Condominiums, L.L.C., all of its rights as "Declarant" under the Declaration;

WHEREAS, Jordan Creek Condominiums, LLC a/k/a Jordan Creek Condominiums, L.L.C., subsequently conveyed to Clearwater Land, L.L.C., all of its rights as "Declarant" under the Declaration, pursuant to a Warranty Deed dated March 23, 2012, recorded March 29, 2012, in Book 2012, Page 4779, of the Dallas County Recorder's Office, and then re-recorded to correct the legal description on April 12, 2012, in Book 2012, Page 5665, of the Dallas County Recorder's Office.

WHEREAS, Jordan Creek Condominiums, L.L.C., as Declarant, and pursuant to the Declaration, has filed three Amendments to the Declaration, namely, a First Amendment filed January 22, 2010, in Book 2010, Page 714; a Second Amendment filed March 12, 2010, in Book 2010, Page 2456; and a Third Amendment that was mistakenly titled "Second Amendment" filed September 9, 2011, in Book 2011, Page 11463; and a Fourth Amendment dated May 9, 2012, filed May 21, 2012, in Book 2012, Page 8004, all in the Dallas County records;

WHEREAS, in accordance with the Declaration, the Declarant desires to further amend the Declaration as set forth below.

THEREFORE, THE DECLARATION IS HEREBY AMENDED AS FOLLOWS:

1. The title of the Amendment to the Declaration filed September 9, 2011, in Book 11463 of the Dallas County records is hereby amended a second time to read: "THIRD AMENDMENT TO DECLARATION OF SUBMISSION OF PROPERTY TO HORIZONTAL PROPERTY REGIME FOR BELLA SOUTH CONDOMINIUMS".

2. Exhibit "C", setting forth the fractional allocation chart and assigned garage units for each individual unit, is deleted, and in lieu thereof, the attached Exhibit "C" is substituted. This amended Exhibit "C" correctly sets forth the garages that have been assigned to the various Condominium units by virtue of the various transactions that have taken place prior to this Fifth Amendment.
3. Exhibit "A", Amended and Restated Bylaws of the Association, as set forth in the "Second Amendment to Declaration" dated August 10, 2011, filed September 9, 2011, in Book 2011, Page 11463, of the Dallas County Recorder's Office, shall be deleted in its entirety, and the attached Exhibit "A" shall be substituted in lieu thereof.
4. In all other respects, the Declaration, as amended, shall remain unaltered and in full force and effect.

IN WITNESS THEREOF, the Declarant has caused this Fourth Amendment to Declaration to be executed as of the date first written above.

CLEARWATER LAND, L.L.C.

By: _____

Eric A. Sheldahl, Manager

STATE OF ARIZONA)
)
COUNTY OF MARICOPA)

This instrument was acknowledged before me on this 4th day of March, 2013, by Eric A. Sheldahl, as Manager of Clearwater Land, L.L.C.

Notary Public - State of Arizona

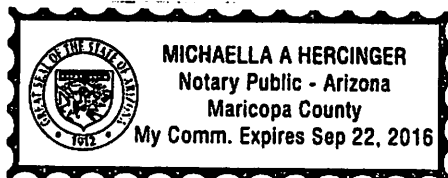


EXHIBIT "A"

AMENDED AND RESTATED BYLAWS
OF
BELLA SOUTH OWNERS ASSOCIATION

ARTICLE I: NAME

The name of the corporation is "Bella South Owners Association." Bella South Owners Association is a non-profit corporation existing under the provisions of Chapter 504 of the Code of Iowa (2009).

ARTICLE II: DEFINITIONS

1. "Association" shall mean and refer to Bella South Owners Association, an Iowa non-profit corporation, its successors and assigns.
2. "Covenants" and/or "Declaration" shall mean and refer to the Declaration of Submission for Horizontal Property Regime, recorded in the office of the Recorder of Dallas County, Iowa, for the property legally described as: Lot 1, Bella South Plat 1, an Official Plat, now included in and forming a part of the City of West Des Moines, Dallas County, Iowa, as the same may be amended from time to time.
3. "Declarant" shall refer to Bella South Owners Association, its successors and assigns.
4. "Garage Unit" shall have the same meaning as Garage Unit under the Declaration.
5. "Member" shall mean and refer to those persons entitled to membership in the Association as provided in the Declaration and in these Bylaws.
6. "Owner" shall mean and refer to the record owner or holder of the fee simple title, or the actual holder or holders of said fee simple title, or any contract vendee of any Unit.
7. "Property" shall mean and refer to Lot 1, Bella South Plat 1, an Official Plat, now included in and forming a part of the City of West Des Moines, Dallas County, Iowa.
8. "Unit" shall have the same meaning as Unit under the Declaration.

ARTICLE III: MEMBERSHIP AND VOTING RIGHTS

1. Eligibility. The members of the Association shall consist of every Owner of a Unit. If an Owner is a corporation or partnership, the member may be an officer, partner or employee of such Owner in accordance with a designation adopted by the appropriate resolution of such Owner and filed with the Association.

2. Succession. The membership of each Owner in the Association shall terminate when that person ceases to be an Owner, and, upon the sale, transfer or other disposition of an ownership interest in the Property, membership in the Association shall automatically be transferred to the new Owner succeeding to such ownership interest.
3. Voting. The Association shall have two classes to voting membership.
 - a. Class A Members. Class A members shall be all Owners, with the exception of the Declarant, and each Member shall be entitled to one vote for each Unit owned. The Owner entitled to vote shall be the Owner of record in the office of the Recorder of Dallas County, Iowa. When more than one person holds an interest in any Unit, all such persons shall be members. The vote for such Unit shall be exercised as such Members determine among themselves, but in no event will a split vote be honored, and in no event shall more than one vote be cast with respect to a Unit. Votes may be by proxy.
 - b. Class B Member. The Class B member shall be the Declarant and it shall be entitled to three vote for each Unit owned. The Class B membership shall cease and be converted to Class A membership on the happening of the following events, whichever occurs earlier:
 - I. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or;
 - ii. January 1, 2018.

ARTICLE IV: MEETINGS OF THE ASSOCIATION

1. Regular Meetings. There shall be a regular annual meeting of Owners held in each fiscal year on a date occurring during the first ninety (90) days of such year fixed by resolution of the Board. The date, time and place for each such meeting of Owners shall be specified in the written notice of such meeting which shall be given to all Owners at least ten (10) days prior to the date of such meeting.
2. Special Meetings. Special meetings of the Owners may be called by the President or by a majority of the Directors then serving on the Board, or by Owners having at least one-fourth (1/4) of the votes entitled to be cast at such meeting. Each special meeting shall be called by delivering written notice to all Owners not less than ten (10) days prior to the date of said meeting, stating the date, time and place of said special meeting and the matters to be considered.
3. Delivery of Notice of Meetings. Notices of meetings may be delivered either personally, by U.S. Mail or by email to an Owner. Notices sent by U.S. Mail or by email shall be sent to the address given to the Board by such Owner for such purpose. If no other address for such purpose has been given to the Board, such notices may be sent by U.S. Mail to the Owner's

Unit.

4. Quorum. A quorum of Owners for any meeting shall be constituted by Owners represented in person or by proxy and holding 1/10 of the votes entitled to be cast at such meeting. At any meeting properly called where such a quorum is not present, those present may vote to recess for the purpose of obtaining such a quorum and, following such delay as a majority of those present may deem reasonable under the circumstances, reconvene. Such recess shall be a minimum of one-half hour. At such reconvened meeting the quorum shall be one-half that required at the meeting prior to recess. The foregoing process may be repeated until a quorum is achieved.
5. Presiding Officer and Rules of Order. The President, or, in his absence or disability, the Vice President shall preside at each members' meeting; if neither the President nor the Vice President is available to preside, a chairman shall be elected by the members present at such meeting. Meetings shall be conducted in accordance with Robert's Rules of Order.
6. Voting Rights. No Owner will be entitled to vote at any meeting of the Association if such Owner is, at the time of such meeting, delinquent in the payment of any sum due to the Association.

ARTICLE V: BOARD OF DIRECTORS

1. Number, Election and Term of Office. The Board of Directors of the Association (referred to herein as the "Board") shall consist of three (3) persons (hereinafter collectively referred to as the "Directors" and each as a "Director"). Directors shall be elected at the regular annual meeting of Association members by the vote of Owners. Those candidates for election as a Director receiving the greatest percentage of the votes cast either in person or by proxy at the meeting shall be elected. Initially, one Director shall be elected to a one-year term, one shall be elected to a two-year term, and one shall be elected to a three-year term. Each Director shall hold office until a successor shall be elected and qualified or until his or her earlier death or resignation.
2. Qualification. Directors must be Members of the Association, must be current with dues and assessments at the time of election, and may be elected to succeed themselves in office; provided, however, that during the period prior to the cessation of Class B membership said Directors need not be Members of the Association.
3. Nomination. Candidates for election to the Board may be nominated by the board or may be self-nominated and may be nominated from the floor at the annual meeting of Members.
4. Vacancies. Any vacancy occurring in the Board shall be filled by majority vote of the remaining members thereof. Any Director so elected or appointed to fill a vacancy shall hold office for a term equal to the unexpired term of the Director that he or she succeeds.
5. Meetings and Quorum. A regular annual meeting of the Board shall be held one month

following the regular annual meeting of the Owners and may be held on the same day as the annual meeting of the Owners. The Board may, by resolution, set the dates, time and place for regular meetings of the Board and no notice thereof shall be required until such resolution is modified or rescinded. Special meetings of the Board shall be held upon a call by the President or by a majority of the Board on not less than forty-eight (48) hours notice in writing to each Director, delivered personally or by U.S. Mail or email. Any Director may waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action proposed to be taken by the Board without a meeting. A Director's attendance at a meeting shall constitute his waiver of notice of said meeting. A majority of the authorized number of Directors shall constitute a quorum. So long as they conduct themselves with proper decorum, any member may attend any official Board meeting.

6. Removal. Any Director may be removed from office for cause by a 60% vote of the membership in the Association or by a majority vote of the other Directors.
7. Compensation. No Director shall receive compensation for his or her services as a Director unless expressly provided for in a resolution duly adopted by a majority vote of the Owners. Each Director may be reimbursed for actual, reasonable expenses incurred in the fulfillment of his or her duties or in furtherance of a Board resolution
8. Powers and Duties. The Board shall have the following powers and duties:
 - a) To elect and remove the officers of the Association as hereinafter provided;
 - b) To administer the affairs of the Association, including without limitation the periodic investment, reinvestment and disbursement of reserves, surpluses and other funds of the Association;
 - c) To engage the services of an agent (hereinafter sometimes called the "Managing Agent") to maintain, repair and replace the yard, driveways, sidewalks, and the joint water and sewer hookups servicing more than one Unit, upon such terms and for such compensation and with such authority as the Board may approve. The Board shall have authority to ratify and approve a management agreement between the Association and a management company to act as Managing Agent for the Association;
 - d) To formulate policies for the administration, management and operation of the Association;
 - e) To provide for the maintenance, repair and replacement of the yards, sidewalks, driveways and all other Common Elements (as defined in the Declaration), all water and sewer hookups which service more than one Unit on the Property, and to make payments therefor; to borrow money for those purposes if necessary; and to approve payment vouchers or delegate such approval to the officers or the manager or Managing Agent.

- f) To provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair and replacement of the items described in Paragraph (f) above, and to delegate any such powers to the manager or Managing Agent (and any such employees or other personnel who may be the employees of a Managing Agent);
- g) To appoint committees of the Board from among the Owners and to delegate to such committees the Board's authority to carry out certain duties of the Board;
- h) To estimate the amount of the annual budget (including a reserve fund for the upkeep and replacement of the items for which the Association is responsible), and to provide the manner of assessing and collecting from the Owners their respective shares of such estimated expenses, as herein provided;
- I) To purchase, hold, sell, convey, mortgage or lease any one or more Units in the name of the Association or its designee;
- j) To bring, prosecute and settle litigation for itself, the Association and the property for which the Association is responsible;
- k) To obtain insurance, as required or deemed appropriate;
- l) To repair or restore the property for which the Association is responsible following damage or destruction;
- m) To own, purchase or lease, hold and sell, or otherwise dispose of, on behalf of the Owners, items of personal property necessary to or convenient in the management of the business and affairs of the Association and the Board, including without limitation, furniture, furnishings, fixtures, maintenance equipment, appliances and office supplies;
- n) To keep adequate books and records, including the minute book wherein the resolutions of the Association and the Board Minutes shall be kept;
- o) To provide for a procedure to approve ordinary and extraordinary expenditures, and to delegate authority to sign checks and issue payment vouchers;
- p) to pay off liens incurred by the Association against any portion of the Property;
- q) to exercise all other powers and duties of the Association as referred to in the Declaration or these Bylaws, including the power to delegate to one or more persons such of the foregoing powers as the Board may deem prudent for the efficient management of Association affairs.

9. Presiding Officer and Rules of Order. The President, or in his or her absence or disability, the vice President, shall preside at each Board meeting. If neither the President nor Vice President is able to preside, the Secretary shall preside. Meetings shall be conducted in accordance with Robert's Rules of Order.

ARTICLE VI: OFFICERS

1. Designation. At each annual meeting of the Board, the Directors present at said meeting shall elect the following officers of the Association by a majority vote:
- a) President. The President shall preside over the meetings of the Board and of the Owners, and shall be the chief executive officer of the Association. The President shall sign written contracts of the Association pursuant to authorizing resolutions of the Board. The President must be a Director.
 - b) Vice President. The Vice President shall perform all of the duties of the President when the President is absent or disabled, as well as other duties assigned by the President or Board. The Vice President must be a Director.
 - c) Secretary. The Secretary shall keep the minutes of all meetings of the Board and of the Owners, and shall, in general, perform all the duties incident to the office of Secretary. The Secretary must be a Director.
 - d) Treasurer. The Treasurer shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported. The Treasurer shall prepare a list of members prior to each meeting for the Association identifying those members who are ineligible for election or to vote because of delinquent payments due to the Association. The Treasurer must be a Director.
 - e) Additional Officers.

RULES AND REGULATIONS
OF
BELLA SOUTH OWNERS ASSOCIATION

Adopted by Board of Directors March 4, 2013
Effective Date of April 1, 2013

All policies will be handled with the following procedure unless otherwise designated:

First Violation - certified mail
Second Violation - \$100 fine
Third Violation - \$200 fine

No further notice will be sent following the third violation. Violations will be turned over to judicial action at homeowner's expense for correction or all means allowed by governing documents. All finds are due 30 days after receipt.

In the event that an owner causes the need for maintenance or repair of any Association responsibility element, the cost of maintenance or repair shall be assessed to the owner.

Trash is not allowed in any general or limited common elements other than in provided receptacles. No bicycles, toys or any private property is allowed to be stored in the common elements at any time. No charcoal grills are allowed on the property in any circumstances or any areas on the property. Garage doors are to be kept closed at all times except time of access.

No exterior alterations or improvements are to be made to common elements without permission of the Association. Unapproved changes will be removed at homeowner expense without notice.

Nothing shall be planted, altered, constructed upon, or removed from the common elements without sent from the Association.

Rentals are allowed for residential use only. No more than 30 percent of the total units are allowed to be rented at any one time. All lease agreements must be on file with the management company. Agreements must be for a term of 6 months or more. All agreements must be submitted to the Board of Directors prior to tenant occupancy.

No unit may be used for another purpose than residential use. No business or occupation may be operated on the property at any time. All monthly assessments must be paid by the 15th of each month. A \$35 late fee will be assessed for each month owner is delinquent.

No trailer, camper, mobile home, commercial vehicle, truck (other than standard size pick-up or van), boat or similar equipment shall be permitted to remain upon any area with the project at any time unless work related as contracted by the Association.

No smoking is allowed in the general common elements at any time.

Dogs or cats weighing less than 25 pounds at full growth are allowed on the property at any time. Each unit is allowed to have no more than two (2) pets. Pets outside a unit must be kept on a leash at all times.

No signs of any type are allowed on the property without Board approval, i.e., Rental, For Sale, Real Estate, etc.

Abandoned, disabled or non-operating vehicles will be towed away at owner's expense without notice.

Hardware or screws or any material of the like is not allowed to be attached to any deck, patio, or structure without Board approval and deck owner permission.

EXHIBIT "C"
FRACTIONAL ALLOCATION CHART

<u>Address</u>	<u>Unit No.</u>	<u>Garage No.</u>	<u>Interest in Common Area</u>
6350 Coachlight Dr., West Des Moines, IA	1101	G-21	1/72
6350 Coachlight Dr., West Des Moines, IA	1102	G-22	1/72
6350 Coachlight Dr., West Des Moines, IA	1103	G-6	1/72
6350 Coachlight Dr., West Des Moines, IA	1104	G-19	1/72
6350 Coachlight Dr., West Des Moines, IA	1105	G-29	1/72
6350 Coachlight Dr., West Des Moines, IA	1106	G-18	1/72
6350 Coachlight Dr., West Des Moines, IA	1107	G-13	1/72
6350 Coachlight Dr., West Des Moines, IA	1108	G-12	1/72
6350 Coachlight Dr., West Des Moines, IA	1201	G-23	1/72
6350 Coachlight Dr., West Des Moines, IA	1202	G-11	1/72
6350 Coachlight Dr., West Des Moines, IA	1203	G-3	1/72
6350 Coachlight Dr., West Des Moines, IA	1204	G-16	1/72
6350 Coachlight Dr., West Des Moines, IA	1205	G-2	1/72
6350 Coachlight Dr., West Des Moines, IA	1206	G-1	1/72
6350 Coachlight Dr., West Des Moines, IA	1207	G-14	1/72
6350 Coachlight Dr., West Des Moines, IA	1208	G-24 & 25	1/72
6350 Coachlight Dr., West Des Moines, IA	1301	G-15	1/72
6350 Coachlight Dr., West Des Moines, IA	1302	G-7	1/72
6350 Coachlight Dr., West Des Moines, IA	1303	G-8	1/72
6350 Coachlight Dr., West Des Moines, IA	1304	G-17	1/72
6350 Coachlight Dr., West Des Moines, IA	1305	G-5	1/72
6350 Coachlight Dr., West Des Moines, IA	1306	G-4	1/72
6350 Coachlight Dr., West Des Moines, IA	1307	G-10	1/72
6350 Coachlight Dr., West Des Moines, IA	1308	G-26	1/72
6350 Coachlight Dr., West Des Moines, IA	2101	G-67	1/72
6350 Coachlight Dr., West Des Moines, IA	2102	G-68	1/72
6350 Coachlight Dr., West Des Moines, IA	2103	G-65	1/72
6350 Coachlight Dr., West Des Moines, IA	2104	G-52	1/72
6350 Coachlight Dr., West Des Moines, IA	2105	G-62	1/72
6350 Coachlight Dr., West Des Moines, IA	2106	G-61	1/72
6350 Coachlight Dr., West Des Moines, IA	2107	G-71	1/72
6350 Coachlight Dr., West Des Moines, IA	2108	G-64	1/72
6350 Coachlight Dr., West Des Moines, IA	2201	G-72	1/72
6350 Coachlight Dr., West Des Moines, IA	2202	G-69	1/72
6350 Coachlight Dr., West Des Moines, IA	2203	G-51	1/72
6350 Coachlight Dr., West Des Moines, IA	2204	G-55	1/72
6350 Coachlight Dr., West Des Moines, IA	2205	G-56	1/72
6350 Coachlight Dr., West Des Moines, IA	2206	G-60	1/72

EXHIBIT "C" (continued)

<u>Address</u>	<u>Unit No.</u>	<u>Garage No.</u>	<u>Interest in Common Area</u>
6350 Coachlight Dr., West Des Moines, IA	2207	G-9	1/72
6350 Coachlight Dr., West Des Moines, IA	2208	G-74	1/72
6350 Coachlight Dr., West Des Moines, IA	2301	G-53	1/72
6350 Coachlight Dr., West Des Moines, IA	2302	G-20	1/72
6350 Coachlight Dr., West Des Moines, IA	2303	G-54	1/72
6350 Coachlight Dr., West Des Moines, IA	2304	G-66	1/72
6350 Coachlight Dr., West Des Moines, IA	2305	G-73	1/72
6350 Coachlight Dr., West Des Moines, IA	2306	G-75 & 76	1/72
6350 Coachlight Dr., West Des Moines, IA	2307	G-63	1/72
6350 Coachlight Dr., West Des Moines, IA	2308	G-70	1/72
6350 Coachlight Dr., West Des Moines, IA	3101	G-46	1/72
6350 Coachlight Dr., West Des Moines, IA	3102	G-40	1/72
6350 Coachlight Dr., West Des Moines, IA	3103	G-57	1/72
6350 Coachlight Dr., West Des Moines, IA	3104	G-39	1/72
6350 Coachlight Dr., West Des Moines, IA	3105	G-30	1/72
6350 Coachlight Dr., West Des Moines, IA	3106	G-59	1/72
6350 Coachlight Dr., West Des Moines, IA	3107	G-58	1/72
6350 Coachlight Dr., West Des Moines, IA	3108	G-34	1/72
6350 Coachlight Dr., West Des Moines, IA	3201	G-41	1/72
6350 Coachlight Dr., West Des Moines, IA	3202	G-50	1/72
6350 Coachlight Dr., West Des Moines, IA	3203	G-43	1/72
6350 Coachlight Dr., West Des Moines, IA	3204	G-48	1/72
6350 Coachlight Dr., West Des Moines, IA	3205	G-45	1/72
6350 Coachlight Dr., West Des Moines, IA	3206	G-32	1/72
6350 Coachlight Dr., West Des Moines, IA	3207	G-31	1/72
6350 Coachlight Dr., West Des Moines, IA	3208	G-33	1/72
6350 Coachlight Dr., West Des Moines, IA	3301	G-47	1/72
6350 Coachlight Dr., West Des Moines, IA	3302	G-44	1/72
6350 Coachlight Dr., West Des Moines, IA	3303	G-36	1/72
6350 Coachlight Dr., West Des Moines, IA	3304	G-37	1/72
6350 Coachlight Dr., West Des Moines, IA	3305	G-27	1/72
6350 Coachlight Dr., West Des Moines, IA	3306	G-28	1/72
6350 Coachlight Dr., West Des Moines, IA	3307	G-49	1/72
6350 Coachlight Dr., West Des Moines, IA	3308	G-35	1/72

Unassigned garages reserved to Declarant.:
G38 and G42