



STATE OF TEXAS §

COUNTY OF TRAVIS §

**AMENDMENT TO DECLARATION OF BECKETT PLACE TOWNHOMES,  
A CONDOMINIUM  
(relating to leasing of units)**

**Document reference.** Reference is hereby made to that certain Declaration of Beckett Place Townhomes, a Condominium, filed as Document No. 2002047551 in the Official Public Records of Travis County, Texas, and that certain Amendment to Declaration of Beckett Place Townhomes, a Condominium, filed as Document No. 2006227545 in the Official Public Records of Travis County, Texas (cumulatively, the "Declaration").

WHEREAS owners of condominium units subject to the Declaration are automatically made members of the Beckett Place Townhome Association (the "Association");

WHEREAS Section 18.1 of the Declaration provides that the Declaration can be amended by the affirmative vote of members holding at least 67 percent of the votes in the Association, and the amendment contained herein has received the requisite votes to be approved by means of signed ballots issued in compliance with Section 18.2 of the Declaration; and

WHEREAS, while the amendment contained herein is an "Amendment of a Material Nature" and requires the approval of at least 51 percent of the "Eligible Mortgagees" (as those phrases are defined in the Declaration) pursuant to Section 17.8 of the Declaration, as of the date of this amendment no person or entity has submitted adequate notice to the Association to qualify as an Eligible Mortgagee, as required under Section 17.1.2 of the Declaration, so no such approval is required for the amendment contained herein to be effective, and no such approval has been obtained;

THEREFORE the Declaration has been, and by these presents is, AMENDED as follows:

**By amending and restating Article 11 (Unit Leasing) so that it reads in its entirety as follows:**

**"ARTICLE 11  
UNIT LEASING**

11.1 **DEFINITION OF LEASING.** A Unit is deemed "leased," and its occupants deemed "tenants," for purposes of this Article 11 and other leasing-related provisions in this Declaration and the other Documents, except when: (i) the Unit is occupied by the Unit owner, (ii) the Unit is occupied by a person immediately related to the owner by blood, marriage or adoption, (iii) the Unit is vacant, or (iv) title to the Unit is held by a corporation, trust, partnership, or other legal entity, with the primary purpose of providing occupancy to the current occupant. This definition applies irrespective of whether there is a written agreement between the Unit owner and the occupant(s) or whether any financial consideration has been provided for the right of occupancy.

11.2 **GENERAL LEASE CONDITIONS.** The leasing of Units is subject to the following general conditions: (1) no Unit may be rented for transient or hotel purposes or for a lease term other than 12 months, except that the Board shall have the

sole discretion on a case-by-case basis to grant prior written consent for a shorter lease term; (2) no Unit may be subdivided for rent purposes, and not less than an entire unit may be leased; (3) all leases must be in writing and must be made subject to the Documents; (4) an owner is responsible for providing his tenants with copies of the Documents and notifying him of changes thereto; (5) each tenant is subject to and must comply with all provisions of the Documents, federal and State laws, and local ordinances; and (6) an owner must provide the Association a complete and legible copy of the fully-executed lease prior to occupancy by a tenant, except that copies of Grandfathered Leases shall be delivered to the Association within 15 days of notice that this provision has been adopted.

**11.3 SCREENING OF TENANTS AND OCCUPANTS; PROOF OF SCREENING.** Prior to leasing to anyone or allowing anyone except the Unit owner, or an individual related to the owner by marriage, blood or adoption, to occupy a Unit, an owner must exercise due diligence to ensure that the potential tenant or occupant has no conviction or deferred adjudication history of a crime involving attempted or actual serious physical harm to a person or a felonious crime against property. These crimes include, but are not limited to, murder, felonious assault, rape, molestation, sexual assault, indecency with a child, kidnapping, and arson. At a minimum, an owner must obtain a report based upon Texas Department of Public Safety criminal history and sex offender searches both for the named tenants/occupants under the lease and all unnamed persons whom the owner knows, or comes to know, are occupying or will occupy the leased Unit. (Criminal reports may be purchased from the DPS website at [www.txdps.state.tx.us](http://www.txdps.state.tx.us)). If a Unit is subject to a Grandfathered Lease, the owner must perform the due diligence outlined above within 15 days of being sent a notice of the adoption of this provision. If due diligence reveals that a current tenant or occupant has a prohibited criminal history, the owner must terminate the occupancy of such tenant or occupant at the earliest time allowed under the lease, whether a Grandfathered Lease or otherwise. An owner must provide proof of screening within three days of a request from the Association.

**11.4 CAP ON TOTAL NUMBER OF LEASED UNITS.** No more than four (4) Units may be leased at any given point in time, subject to the right of the Board to grant a waiver from this lease cap and the rights of owners and tenants to occupy a Unit under a Grandfathered Lease, as more particularly outline in this Article 11.

**11.5 NOTICE ONLY WHEN BELOW LEASE CAP.** If an existing lease is set to expire within 45 days, fewer than four Units are leased, and no owners are on the rental waiting list, an owner may renew the lease for a 12-month period or extend the lease on a month-to-month basis without obtaining the Board's approval. If extended month-to-month, the owner must give his tenants and occupants 30-days notice to vacate immediately upon learning that there is someone on the rental waiting list. If fewer than four Units are leased and an owner wants to enter into a new lease agreement, no advance approval is required by the Board. The foregoing notwithstanding, a owner desiring to extend, renew, or enter into a new lease must give the Board written notice of the extension, renewal or new lease immediately upon its execution and comply with the other provisions contained in this Article 11. Grandfathered Leases are governed additionally by Section 11.7 below.

**11.6 BOARD AUTHORITY TO GRANT WAIVER TO LEASE CAP.** If four or more Units are leased, an owner desiring to extend or renew a lease (other than a

Grandfathered Lease) or to enter into a new lease agreement must: (i) place his name on the rental waiting list; and/or (ii) apply to the Board for a waiver under sub-section (A) below.

A. Exception for Undue Hardship. If a Unit has not been leased in the past 12 months, the Board has the discretionary authority to grant a waiver from the lease cap and to approve an owner's written application to lease the Unit for a stated period of time, if necessary to avoid undue hardship. By way of illustration and not limitation, examples of circumstances that may contribute to "undue hardship" are those in which (1) an owner must relocate to another region when market conditions do not favor a timely sale for an amount exceeding the debt against the Unit; (2) the Unit is being administered by the deceased owner's estate; and (3) the owner temporarily relocates and intends to return to occupy the Unit. The owner must submit a written application stating why a prohibition against leasing would result in undue hardship to the owner and otherwise describe the circumstances necessitating the leasing.

B. Application and Approval. Approval by the Board of a waiver under subsection A above must be in writing and may not be deemed from lack of a response. The Board's approval may be limited to a stated period of time that, if not stated, is deemed to be one year from the date written approval is granted. On expiration of that period, the tenant must vacate the Unit.

11.7 GRANDFATHERED LEASES. All lease agreements in effect as of the date the lease cap in Section 11.4 was approved by the Unit owners are deemed "Grandfathered Leases." Grandfathered Leases are not terminable by the Association merely because more than four Units are then being leased. However, Unit owners are prohibited from renewing or extending the expiration date of a Grandfathered Lease, unless the Unit owner is legally required to grant such a renewal or extension by the terms of the Grandfathered Lease. After the expiration of a Grandfathered Lease, the related Unit shall thereafter be subject to all of the provisions contained within this Article 11. Nevertheless, if a Grandfathered Lease is set to expire in 45 days or fewer and there are no owners on the rental waiting list, the Unit owner may enter into a new lease with the tenant. This new lease will not be deemed a Grandfathered Lease, but rather will be subject to all of the terms and conditions outlined in this Article 11.

11.8 RENTAL WAITING LIST; OPPORTUNITY TO LEASE. The Association will maintain a prioritized waiting list of owners desiring to lease Units at all times when four or more Units are being leased. Once a space becomes available for an owner on the waiting list to lease his Unit, the owner shall be given 60 days to lease the Unit. If the Unit is not leased within that timeframe, the owner shall be placed back on the rental waiting list at the top of the list and the next owner on the list shall be given a similar opportunity to lease his Unit. If an owner on the rental waiting list is attempting to lease his Unit, that Unit will be deemed "leased" for purposes of the leasing cap under Section 11.4 above.

11.9 EVICITION OF TENANTS. Every lease agreement on a Unit, whether written or oral, express or implied, is subject to and is deemed to include the following provisions:

A. Violation Constitutes Default. Failure by the tenant or his invitees to comply with the Documents, federal or State law, or local ordinance is deemed to be a default under the lease. When the Association notifies an owner of his tenant's violation, the owner will promptly obtain his tenant's compliance or exercise his rights as landlord for tenant's breach of lease. If the tenant's violation continues or is repeated, and if the owner is unable, unwilling, or unavailable to obtain his tenant's compliance, then the Association has the power and right to pursue the remedies of a landlord under the lease or State law for the default, including eviction of the tenant, subject to the terms of this Section 11.9.

B. Association as Attorney-in-Fact. Notwithstanding the absence of an express provision in the lease agreement for enforcement of the Documents by the Association, each owner appoints the Association as his attorney-in-fact, with full authority to act in his place in all respects, solely for the purpose of enforcing the Documents against his tenants, including but not limited to the authority to institute forcible detainer proceedings against his tenant on his behalf, provided the Association gives the owner at least 10 days' notice, by certified mail, of its intent to so enforce the Documents.

C. Association Not Liable for Damages. The owner of a leased Unit is liable to the Association for any expenses incurred by the Association in connection with enforcement of the Documents against his tenant. The Association is not liable to the owner for any damages, including lost rents, suffered by the owner in relation to the Association's enforcement of the Documents against the owner's tenant.

11.10 MORTGAGEES & DECLARANT EXEMPT. A mortgagee acquiring possession of or title to a Unit by exercise of its rights under a deed of trust is exempt from the effect of this Article. This exemption does not pass to the mortgagee's successors and assigns. During the Development Period, Declarant is exempt from the effect of this Article."

Subject solely to the amendment contained herein, the Declaration remains in full force and effect.

APPROVED and ADOPTED as of May 1, 2008.

**BECKETT PLACE TOWNHOME ASSOCIATION**

**Certification**

I, MICHAEL H. ROOT, in my capacity as President of Beckett Place Townhome Association, do hereby certify that the amendment contained herein has been approved by members holding at least 67 percent of the votes in the Association and otherwise in compliance with Articles 17 and 18 of the Declaration.



By: MICHAEL H. ROOT

Title: President

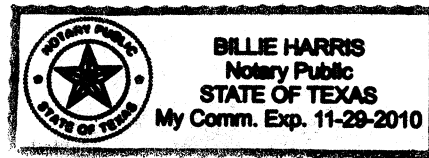
**Acknowledgement**

STATE OF TEXAS                   §

COUNTY OF TRAVIS               §

This instrument was acknowledged before me on the 4<sup>th</sup> day of June, 2008, by Michael Root in the capacity stated above.

Billie Harris  
Notary Public, State of Texas



After recording, please return to:  
Niemann & Niemann, L.L.P.  
Attorneys At Law  
Westgate Building, Suite 313  
1122 Colorado Street  
Austin, Texas 78701

Fileserver:CLIENTS:BeckettPlace:DeclAmendLeasing.doc

**FILED AND RECORDED**

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2008 Jun 17 08:59 AM 2008101102

FERGUSONLL \$32.00

DANA DEBEAUVOIR COUNTY CLERK  
TRAVIS COUNTY TEXAS