18877

Doc ID: 021157750005 Type: GEN
Recorded: 05/09/2008 at 03:47:48 PM
Fee Amt: $27.00 Page 1 of 5
Johnson County Iowa
Kim Painter County Recorder
BK4296 PG601-605

Preparer
Information and return to: Kirsten H. Frey, 920 S. Dubuque Street, P.O. Box 2000, Iowa City, Iowa 52240 (319) 351-8181

AMENDMENT TO DECLARATION OF CONDOMINIUM FOR CARDINAL CONDOMINIUMS

COMES NOW, the Cardinal Condominium Owners Association, and hereby states as follows:

WHEREAS, Notice of a Special Meeting of the Cardinal Condominium Owners Association to be held on the 7th day of May, 2008 was given on the 25th day of April, 2008 in accordance with the provisions of the Condominium Declaration and the Bylaws of the Cardinal Condominium Owners Association; and

WHEREAS, said Notice indicated that a purpose of the Special Meeting was to consider a possible amendment to the Condominium Declaration, a copy of which proposed amendment was provided with said Notice; and

WHEREAS, a quorum was present at said special meeting; and

WHEREAS, following discussion, said proposed amendment was approved and ratified by a vote of 31 to 0, said vote being more than the 66 2/3 vote required to amend the Condominium Declaration, according to its terms; and

NOW THEREFORE, the Cardinal Condominium Owners Association, hereby amends the original Declaration of Submission to Horizontal Property Regime Establishing A Plan For Condominium Ownership Of The Premises, recorded October 7, 2003 in Book 3652, Page 223 of the records of Johnson County, Iowa; as amended by that certain First Amendment to the Declaration of Submission to Property to Horizontal Regime dated the 19th day of November, 2003 and recorded November 20, 2003 in Book 3669, Page 240 of the Records of Johnson County, Iowa; and that Second Amendment to the Declaration of Submission to Property to Horizontal Regime dated November 2, 2004 and recorded November 30, 2004 in Book 3819, Page 677 of the Records of Johnson County, Iowa by that certain Third Amendment to the Declaration of Submission to Property to Horizontal Regime dated the 28th day of August, 2005

and recorded September 30, 2005 in Book 3946 Page 694 of the Records of Johnson County, Iowa in the following particulars:

1. Article VII, is hereby amended by adding the additional new paragraph twelve entitled Financial Management. Paragraph twelve shall read as follows:

> **12. Financial Management.** The Association shall have the right to levy monthly assessments against each Unit for its proportionate share of the Common Expenses and each Unit Owner shall timely pay its proportionate share of the Common Expenses. Such proportionate share of the Common Expenses for each Unit Owner shall be determined in the manner provided by the Condominium Documents and as specified on Exhibit "A" or otherwise. The Common Expenses of the Association for each month shall include the estimated funds required to defray the common expenses and to provide and maintain funds for the following accounting categories according to good accounting practices:
>
> (a) Current expenses which shall include all expenses incurred by the Association in the prior month, plus one-twelfth of expenses that are incurred on an annual basis, plus a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves or to additional improvements; and
>
> (b) Reserve for deferred maintenance, which shall include funds for maintenance items that occur less frequently than annually; and
>
> (c) Reserve for replacement that shall include funds for repair or replacement required because of damage, destruction, depreciation or obsolescence.
>
> Each Unit Owner's assessment is due and payable on the first of each month.
>
> No Unit Owner shall be exempt from payment of its proportionate share of the Common Expenses by waiver, non-use, or enjoyment of the Common Elements or by abandonment of its Unit. If any Unit Owner shall fail or refuse to make any such payment of the Common Expenses when due, the amount thereof together with interest thereon at the maximum lawful rate in the State of

Iowa, accruing from and after the date that the Common Expenses become due and payable, together with costs and reasonable attorney's fees associated with collection, shall constitute a lien on the interest of such Unit Owner in the Project and its Unit, subject to the provisions of Article XII. In the event assessments are past due in excess of thirty (30) days and not in lieu of any other remedy, the Association shall also have the right to disconnect, at the Unit Owner's expense, any utilities to a Unit that are provided by the Association, including but not limited to electricity, water, gas and the like, upon five (5) days written notice to the Owner. Any and all costs associated with said disconnection shall be assessed against the Unit that is being disconnected for failure to pay its assessments. The Association shall also have any and all rights available under law to seek collection of said unpaid assessments, interest and attorney's fees as hereinafter described. Upon sale of a Unit, the Unit Owner shall be entitled to request a certificate from the Board that all Owner's Assessments to date are paid and if said obligations are current, the Board shall promptly provide such a certificate, in recordable form, to the Unit Owner.

The Board may bring an action at law against the Unit Owner personally obligated to pay the same for collection of its unpaid proportionate share of the Common Expenses or to foreclose the lien against the Unit or Units owned by such Unit Owner, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each Unit Owner, by acceptance of a deed to or recording a contract for purchase of a Unit, expressly vests in the Board and its agents the right and power to bring all actions against such Unit Owner personally for the collection of such charges as a debt and to enforce the lien by all methods available for the enforcement of such liens. The lien shall be in favor of the Association and shall be for the common benefit of all Unit Owners. The Board acting on behalf of the Unit Owners shall have the power to bid upon an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same.

The holder of a mortgage on any Unit, upon its filing written request with the Association, shall be given written notice by the Association of the nonperformance of a

mortgagor's obligations under this Declaration or other condominium documents, which is not cured within thirty (30) days.

All sums assessed but unpaid, including but not limited to, interest with respect to a Unit or against a Unit Owner shall constitute a lien on such unit prior to all other liens except:

(a) Tax liens on the Unit in favor of any assessing unit and special district; and

(b) All sums unpaid on a first mortgage of record.

Said lien may be foreclosed by the Association in the manner and with the consequences provided in Section 499B.17 of the Code of Iowa, as amended, in which event the Owner shall be required to pay a reasonable rental for the Unit. The Association may sue for money judgment for unpaid assessments and interest or sums due without foreclosing or waiving any lien that it holds.

Notwithstanding the foregoing, however, if a mortgagee or purchaser of a Unit obtains title as a result of foreclosure of a first mortgage, neither such mortgagee or purchaser or their successors or assigns, shall be liable for the assessments chargeable to such Unit, due prior to the acquisition of title, and such unpaid assessments shall thereafter be deemed to be common expenses collectible from all Unit Owners including the mortgagee or purchaser and their successors and assigns. The Owner of a Unit pursuant to a voluntary conveyance or by inheritance or devise shall be jointly and severally liable with the grantor or prior Owner for all unpaid assessments against the grantor or prior Owner, but without prejudice to the right of such grantee or devisee to recover from the grantor the amounts paid therefore. The grantee or other successor in interest of an individual subject to a levy of an assessment on account of default shall be liable for any such special assessment.

Except as expressly modified herein the Declaration of Submission to Property to Horizontal Regime for Cardinal Condominiums remains in full force and effect, accept for the exception modified herein.

DATED this 7th day of May 2008.

CARDINAL CONDOMINIUM OWNERS ASSOCIATION

BY: Gary Werle, President and Secretary

STATE OF IOWA)
) ss:
JOHNSON COUNTY)

This instrument was acknowledged before me on this 8th day of May 2008 by Gary Werle as President and Secretary of Cardinal Condominium Owners Association.

Notary Public in and for the State of Iowa

NOTARIAL SEAL IOWA
KIRSTEN H FREY
Commission Number 180259
My Commission Expires
July 12, 2010

KF32/Cardinal Condo Amendment