

CUYAHOGA COUNTY RECORDER
PATRICK J. O'MALLEY
DECL 05/03/2005 09:20:25 AM
200505030004

AMENDMENTS TO THE
DECLARATION OF CONDOMINIUM OWNERSHIP
FOR
BAYWOOD ESTATES CONDOMINIUMS

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF CONDOMINIUM OWNERSHIP FOR BAYWOOD ESTATES CONDOMINIUMS RECORDED AT VOLUME 84-4708, PAGE 30 ET SEQ. OF THE CUYAHOGA COUNTY RECORDS.

CUYAHOGA COUNTY RECORDER
200505030004 PAGE 1 of 7

AMENDMENTS TO THE
DECLARATION OF CONDOMINIUM OWNERSHIP FOR
BAYWOOD ESTATES CONDOMINIUM

WHEREAS, the Declaration of Condominium Ownership for Baywood Estates Condominiums (the "Declaration") and the Bylaws of Baywood Estates Condominiums (the "Bylaws"), Exhibit "C" to the Declaration, were recorded at Cuyahoga County Records Volume 84-4709, Page 4 et seq., and

WHEREAS, Section 5311.05(E)(1) of the Ohio Revised Code, as amended on July 20, 2004, authorizes the Board of Directors, without a vote of the Owners, to amend the Declaration "to bring the Declaration in compliance with this Chapter," and

WHEREAS, the Board of Directors approved the following matters to be modified (the "Amendments") in order to bring the Declaration into compliance with Ohio Revised Code Chapter 5311, and

WHEREAS, the proceedings necessary to amend the Declaration and Bylaws as permitted by Chapter 5311 of the Ohio Revised Code and the Declaration of Condominium Ownership for Baywood Estates Condominiums have in all respects been complied with.

NOW THEREFORE, the Declaration of Condominium Ownership for Baywood Estates Condominiums is hereby amended by the Board of Directors as follows:

- (1) All references in the Declaration and Bylaws 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 Bylaws to the term "Limited Common Areas" or "Limited Common Areas and Facilities" shall be replaced with the term "Limited Common Elements."
- (3) All references in the Declaration and Bylaws to the term "Board of Managers" shall be replaced with the term "Board of Directors."
- (4) DELETE DECLARATION ARTICLE IX, entitled "SERVICE OF PROCESS" in its entirety. Said deletion is to be made on Page 10 of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq.

INSERT a new DECLARATION ARTICLE IX, entitled "SERVICE OF PROCESS." Said addition, to be made on Page 10 of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq., is as follows:

ARTICLE IX
SERVICE OF PROCESS

The person to receive service of process for the Association shall be as designated by the Board. This designation will be accomplished by filing with the Ohio Secretary of State the required statutory agent designation form.

(5) INSERT a new SECTION 18.3, entitled "Enforcement Assessments," to the end of DECLARATION ARTICLE XVIII. Said new addition, to be added on Page 24 of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq., is as follows:

18.3 Enforcement Assessments. In accordance with Ohio Revised Code Section 5311.081(B)(12), the Board shall have the authority to impose interest and administrative late fees for the late payment of Assessments; impose returned check charges; and, in accordance with the procedure outlined in Ohio Revised Code Section 5311.081(C)(1), impose reasonable enforcement Assessments for violations of the Declaration, the Bylaws, and the rules of the Association, and reasonable charges for damage to the Common Elements.

(6) INSERT a new 2nd PARAGRAPH to the end of DECLARATION ARTICLE XII, SECTION 12.2. Said new addition, to be added on Page 13 of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq., is as follows:

In accordance with Ohio Revised Code Section 5311.18(A)(1)(b), the Association has a lien upon each Unit's ownership interest for any unpaid interest, administrative late fees, enforcement Assessments, and collection costs, attorney's fees, and paralegal fees.

(7) INSERT a new 2nd PARAGRAPH to the end of DECLARATION ARTICLE IV, SECTION 4.2(1). Said new addition, to be added on Page 7 of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq., and is as follows:

In accordance with Ohio Revised Code Section 5311.19(B), 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 a lien against that Unit.

(8) INSERT a new 2nd PARAGRAPH to the end of BYLAWS ARTICLE VII, SECTION 7.1, entitled "Obligation of Unit Owners." Said new addition, to be added on Page 16 of the Bylaws, Exhibit "C" of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq., is as follows:

In accordance with Ohio Revised Code Section 5311.18(A)(2), the Association shall credit payments made by a Unit Owner in the following order of priority:

- (1) First, to interest owed to the Association;
- (2) Second, to administrative late fees owed to the Association;
- (3) Third, to collection costs, attorney's fees, and paralegal fees incurred by the Association; and
- (4) Fourth, to the principal amounts the Unit Owner owes to the Association for the common expenses or enforcement Assessments chargeable against the Unit.

(9) INSERT a new 2nd PARAGRAPH to the end of BYLAWS ARTICLE VII, SECTION 7.11, entitled "Remedies for Failure to Pay Assessments." Said new addition, to be added on Page 19 of the Bylaws, Exhibit "C" of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq., is as follows:

In accordance with Ohio Revised Code Section 5311.081(B)(18), when a Unit Owner is delinquent in the payment of Assessments for more than thirty (30) days, the Board may, by a majority vote, suspend the voting privileges of the owner and/or right of the occupants to use the recreational facilities.

(10) INSERT a new 2nd PARAGRAPH to the end of BYLAWS ARTICLE VII, SECTION 7.15, entitled "Special Services." Said new addition, to be added on Page 20 of the Bylaws, Exhibit "C" of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq., is as follows:

In accordance with Ohio Revised Code Section 5311.081(B)(15), the Board may impose reasonable charges to the Unit Owner for providing copies of the Declaration, Bylaws or amendments thereto as well as reasonable charges for the handling of re-financing and/or resale documentation, and/or statements of unpaid Assessments.

(11) INSERT a new SECTION 4.2(p), entitled "Owner/Resident Information," to DECLARATION ARTICLE IV. Said new addition, to be added on Page 7 of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq., is as follows:

(p) Owner/Resident Information. In accordance with Ohio Revised Code Section 5311.09(A)(2) and (3), each Unit Owner shall, within thirty (30) days of the recording of this Amendment or within thirty (30) days of title transferring to the Unit Owner, provide to the Association the Unit Owner's and/or all occupants' names, home and business mailing addresses, home and business telephone numbers, and the name, business address and business telephone number of any person who manages the Unit as an agent of that Owner. Any change in the information shall be provided to the Board, in writing, within thirty (30) days of said change.

(12) INSERT a new 4th SENTENCE to the end of BYLAWS ARTICLE IV, SECTION 4.12, entitled "Regular Meetings." Said new addition, to be added on Page 11 of the Bylaws, Exhibit "C" of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq., is as follows:

In accordance with Ohio Revised Code Section 5311.08(A)(4)(a), any Board meeting may be held in person or by any method of communication, including electronic or telephonic communication, provided that each Board member can hear, participate and respond to every other Board member.

(13) INSERT a new PARAGRAPH (h) to BYLAWS ARTICLE IV, SECTION 4.9, entitled "Other Duties," and INSERT new SUBPARAGRAPHS (1), (2), (3), (4), (5), (6), and (7), thereafter. Said new additions to be added on Page 10 of the Bylaws, Exhibit "C" of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq., is as follows:

(h) In accordance with Ohio Revised Code Section 5311.081(B), in addition to all other powers enumerated herein, the Board may exercise all powers of the Association, including the power to do the following:

- (1) Hire and fire attorneys, accountants, and other independent contractors and employees that the Board determines are necessary or desirable in the management and/or operation of the Condominium Property and the Association;
- (2) 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, or the Condominium Property, or that involves two or more Unit Owners and relates to matters affecting the Condominium Property;

- (3) Enter into contracts and incur liabilities relating to the operation of the Condominium Property;
- (4) Grant easements, leases, licenses, and concessions through or over the Common Elements;
- (5) Impose and collect fees or other charges for the use, rental, or operation of the Common Elements or for services provided to Unit Owners;
- (6) Purchase insurance and fidelity bonds the Board considers appropriate or necessary; and
- (7) Invest excess funds in investments that meet standards for fiduciary investments under Ohio law.

Any conflict between the above provisions and any other provisions of the Declaration and Bylaws shall be interpreted in favor of the above amendments. Upon the recording of these amendments, only Unit Owners of record at the time of such filing shall have standing to contest the validity of these amendments, whether on procedural, substantive or any other grounds, provided further that any such challenge shall be brought in the court of common pleas within one year of the recording of the amendments.

IN WITNESS WHEREOF, the said Baywood Estates Condominiums has caused the execution of this instrument this 28th day of April, 2005.

BAYWOOD ESTATES CONDOMINIUMS

By: Paul O. Siegel
PAUL SIEGEL, its President

CUYAHOGA COUNTY RECORDER
200505030004 PAGE 6 of 7

STATE OF OHIO)
) SS
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named Baywood Estates Condominiums, by Paul Siegel, its President, who acknowledged that he did sign the foregoing instrument, on Page 6 of 7, and that the same is the free act and deed of said corporation and the free act and deed of him personally and as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in Beachwood, Ohio, this 26th day of April, 2005.


NOTARY PUBLIC

EDWARD F. DONNELLY
Notary Public for the State of Ohio
My Commission Expires Oct. 18, 2009

This instrument prepared by:
KAMAN & CUSIMANO, Attorneys at Law
50 Public Square
600 Terminal Tower
Cleveland, Ohio 44113
(216) 696-0650

CUYAHOGA COUNTY RECORDER
200505030004 PAGE 7 of 7

RECEIVED MAY 20

Kaman & Cusimano

*Attorneys at Law
Terminal Tower*

50 Public Square, Suite 600

Cleveland, Ohio 44113

(216) 696-0650

Telefax (216) 771-8478

**David W. Kaman
Joseph J. Cusimano*

**Also admitted to practice in Florida*

*Robert E. Kmiecik
Darcy Mehling Good
Russell Spsack
Linda J. Habinak*

May 19, 2005

Baywood Estates Condominium
c/o Ed Donnelly
Western Reserve
1703 Brookpark Road
Cleveland, Ohio 44109

Re: H.B. 135 Amendments

Dear Mr. Donnelly:

Enclosed, please find a copy of the fully executed and recorded H.B. 135 Amendments to the Declaration of Condominium Ownership for Baywood Estates Condominiums. The Amendments were filed with the Cuyahoga County Recorder's Office on May 3, 2005, at Instrument No. 200505030004. The Amendments became binding and effective on the date they were filed.

At this point in time, your Board must provide each owner with a copy of the Amendments. Owners should be advised to file the Amendments with their respective copy of the Declaration and Bylaws and that all of the documents must be passed onto the future buyer of their unit.

With the receipt of the recorded Amendments, our work on this matter is complete and I have closed our file accordingly. Should you or any of the Board members have any questions or wish to further discuss this matter, please do not hesitate to telephone me.

Sincerely yours,

David W. Kaman

DAVID W. KAMAN

DWK:sh

Enclosure

xc: All Board Members (letter only)