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Montgomery County
Judy Dodge Recorder

AMENDMENTS TO THE

DECLARATION OF CONDOMINIUM OWNERSHIP

FOR

FOX RUN CONDOMINIUM

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF CONDOMINIUM OWNERSHIP FOR FOX RUN CONDOMINIUM RECORDED AT MICROFICHE NUMBER 73-281-A10 OF THE MONTGOMERY COUNTY RECORDS.

PLAT MAP RECORDED AT PLAT BOOK 92, PAGE 85.

AMENDMENTS TO THE DECLARATION OF CONDOMINIUM OWNERSHIP FOR FOX RUN CONDOMINIUM

WHEREAS, the Declaration of Condominium Ownership for Fox Run Condominium (the "Declaration") and the Bylaws of The Fox Run Condominium Homeowners Association, Inc. (the "Bylaws"), attached to and made part of the Declaration, were recorded at Montgomery County Records Microfiche Number 73-281-A10, 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 Fox Run Condominium have in all respects been complied with.

NOW THEREFORE, the Declaration of Condominium Ownership for Fox Run Condominium 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" and/or "Board of Trustees" shall be replaced with the term "Board of Directors."

(4) **DELETE DECLARATION ARTICLE XIV, SECTION 14.7, entitled "Service of Process,"** in its entirety. Said deletion is to be made on Page 23 of the Declaration, as recorded at Montgomery County Records, Microfiche Number 73-281-A10.

INSERT a new DECLARATION ARTICLE XIV, SECTION 14.7, entitled "Service of Process." Said addition, to be made on Page 23 of the Declaration, as recorded at Montgomery County Records, Microfiche Number 73-281-A10 is as follows:

Section 14.7 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 2nd PARAGRAPH to the end of DECLARATION ARTICLE VI, SECTION 6.7, entitled "Effect of Nonpayment of Assessments: Remedies of the Association." Said new addition, to be added on Page 12 of the Declaration, as recorded at Montgomery County Records, Microfiche Number 73-281-A10 is as follows:

Section 6.7 Effect of Nonpayment of Assessments: Remedies of the Association. 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 PARAGRAPH (d) to the end of DECLARATION ARTICLE VI, SECTION 6.1, entitled "Creation of a Lien and Personal Obligation for Assessments." Said new addition, to be added on Page 10 of the Declaration, as recorded at Montgomery County Records, Microfiche Number 73-281-A10 is as follows:

(d) 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 PARAGRAPH (c) to the end of DECLARATION ARTICLE IX, SECTION 9.1, entitled "Residence Usage." Said new addition, to be added on Page 15 of the Declaration, as recorded at Montgomery County Records, Microfiche Number 73-281-A10, is as follows:

(c) 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 PARAGRAPH (e) to the end of DECLARATION ARTICLE VI, SECTION 6.1, entitled "Creation of a Lien and Personal Obligation for Assessments." Said new addition, to be added on Page 10 of the Declaration, as recorded at Montgomery County Records, Microfiche Number 73-281-A10 is as follows:

(e) 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 DECLARATION ARTICLE IX, SECTION 9.16, entitled "Owner/Resident Information." Said new addition, to be added on Page 17 of the Declaration, as recorded at Montgomery County Records, Microfiche Number 73-281-A10 is as follows:

Section 9.16 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.

(10) MODIFY the 1st SENTENCE of BYLAWS ARTICLE IV, SECTION 1, entitled "Number," and INSERT a new SENTENCE thereafter. Said modification, to be made on Page 3 of the Bylaws, attached to and made part of the Declaration, as recorded at

Montgomery County Records, Microfiche Number 73-281-A10 is as follows: (deleted language is crossed out; new language is underlined)

> The affairs of this Association shall be managed by a Board of three (3) ~~Trustees~~ Directors who shall constitute the Board of ~~Managers~~ Directors required by Section 5311.08 of the Revised Code of Ohio, and said ~~Trustees~~ Directors ~~need not be members of the association~~ must be a Unit Owner or the spouse of a Unit Owner. That notwithstanding, no one (1) Unit may be represented by more than one (1) person on the Board at any one (1) time.

(11) INSERT a new 2nd SENTENCE to the end of BYLAWS ARTICLE VI, SECTION 1, entitled "Regular Meetings." Said new addition, to be added on Page 4 of the Bylaws, attached to and made part of the Declaration, as recorded at Montgomery County Records, Microfiche Number 73-281-A10 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.

(12) INSERT a new 3rd SENTENCE to the end of DECLARATION ARTICLE I, SECTION 1.4, entitled "Common Profits." Said new addition, to be added on Page 3 of the Declaration, as recorded at Montgomery County Records, Microfiche Number 73-281-A10 is as follows:

> In accordance with Ohio Revised Code Section 5311.21, in the alternative, if the Association has collected a Common Surplus at the end of any fiscal year, the Board may determine that such amount will be applied toward reserves.

(13) INSERT a new PARAGRAPH (f) to BYLAWS ARTICLE VII, SECTION 1, entitled "Powers," and INSERT new SUBPARAGRAPHS (1), (2), (3), (4), (5) and (6), thereafter. Said new additions to be added on Page 5 of the Bylaws, attached to and made part of the Declaration, as recorded at Montgomery County Records, Microfiche Number 73-281-A10 is as follows:

> (f) 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) 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;

(2) Enter into contracts and incur liabilities relating to the operation of the Condominium Property;

(3) Grant easements, leases, licenses, and concessions through or over the Common Elements;

(4) Impose and collect fees or other charges for the use, rental, or operation of the Common Elements or for services provided to Unit Owners;

(5) Enter a Unit for bona fide purposes when conditions exist that involve an imminent risk of damage or harm to Common Elements, another Unit, or to the health or safety of the occupants of that Unit or another Unit;

(6) Invest excess funds in investments that meet standards for fiduciary investments under Ohio law.

(14) 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 Fox Run Condominium Homeowners Association, Inc. has caused the execution of this instrument this 18 day of May, 2006.

FOX RUN CONDOMINIUM HOMEOWNERS ASSOCIATION, INC.

By: Bertha M. Dexter Pres.
BERTHA M. DEXTER, its President

STATE OF OHIO)
) SS
COUNTY OF MONTGOMERY)

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named Fox Run Condominium Homeowners Association, Inc., by Bertha M. Dexter, its President, who acknowledged that she 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 her personally and as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in Dayton, Ohio, this 18 day of May, 2006.

NOTARY PUBLIC STATE OF OHIO

ANGELA KINDER
Notary Public, State of Ohio
My Commission Expires
April 3, 2008

Angela Kinder
NOTARY PUBLIC

Me

This instrument prepared by:
KAMAN & CUSIMANO, Attorneys at Law
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Cleveland, Ohio 44113
(216) 696-0650