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IN COMPLIANCE WITH SEC. 319-202  
OHIO REV. CODE

NOV 26 2012



**MARK R. STEWART**  
LORAIN COUNTY AUDITOR

  
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Lorain County, Ohio  
Judith M Nedwick County Recorder  
File **2012-0437806**

AMENDMENTS TO THE

DECLARATION

FOR

THE RESIDENCE AT MORNINGSIDE CONDOMINIUMS

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION FOR  
THE RESIDENCE AT MORNINGSIDE CONDOMINIUMS RECORDED AT  
INSTRUMENT NO. 2006-0170209 OF THE LORAIN COUNTY RECORDS ON  
OCTOBER 12, 2006.

**AMENDMENTS TO THE  
DECLARATION FOR  
THE RESIDENCE AT MORNINGSIDE CONDOMINIUMS**

WHEREAS, the Declaration for The Residence at Morningside Condominiums (the "Declaration") and the Bylaws of The Residence at Morningside Condominium Association, Inc. (the "Bylaws"), Exhibit B of the Declaration, were recorded at Lorain County Records Instrument No. 2006-0170209, and

WHEREAS, Section 5311.05(E)(1) of the Ohio Revised Code authorizes the Board of Directors, without a vote of the Unit 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 for The Residence at Morningside Condominiums have in all respects been complied with.

NOW THEREFORE, the Declaration for The Residence at Morningside Condominiums is hereby amended by the Board of Directors as follows:

(1) DELETE DECLARATION ARTICLE 10, SECTION 10.8, entitled "Service of Process," in its entirety. Said deletion is to be made on Page 13 of the Declaration, as recorded at Lorain County Records, Instrument No. 2006-0170209.

INSERT a new DECLARATION ARTICLE 10, SECTION 10.8, entitled "Service of Process." Said addition, to be made on Page 13 of the Declaration, as recorded at Lorain County Records, Instrument No. 2006-0170209, is as follows:

10.8 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.

(2) INSERT a new 2<sup>nd</sup> PARAGRAPH to DECLARATION ARTICLE 10, SECTION 10.6, entitled "Costs." Said new addition, to be added on Page 12 of the Declaration, as recorded at Lorain County Records, Instrument No. 2006-0170209, is as follows:

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.

(3) INSERT a new 2<sup>nd</sup> PARAGRAPH to the end of DECLARATION ARTICLE 13, SECTION 13.6, entitled "Lien of Condominium Association." Said new addition, to be added on Page 20 of the Declaration, as recorded at Lorain County Records, Instrument No. 2006-0170209, 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.

(4) INSERT a new 3<sup>rd</sup> PARAGRAPH to the end of DECLARATION ARTICLE 13, SECTION 13.2, entitled "Assessments." Said new addition, to be added on Page 17 of the Declaration, as recorded at Lorain County Records, Instrument No. 2006-0170209, 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.

(5) INSERT a new DECLARATION ARTICLE 19, SECTION 19.4, entitled "Suspended Rights." Said new addition, to be added on Page 37 of the Declaration, as recorded at Lorain County Records, Instrument No. 2006-0170209, is as follows:

19.4. Suspended Rights. 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 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.

(6) INSERT a new 2<sup>nd</sup> PARAGRAPH to the end of SUBSECTION (a) in DECLARATION ARTICLE 13, SECTION 13.5, entitled "Special Individual Unit Assessments." Said new addition, to be added on Page 19 of the Declaration, as recorded at Lorain County Records, Instrument No. 2006-0170209, 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.

(7) MODIFY the 1st SENTENCE of BYLAWS ARTICLE II, SECTION 1, entitled "Number of Qualification," and INSERT TWO NEW SENTENCES thereafter. Said modification, to be made on Page 4 of the Bylaws, Exhibit B of the Declaration, as recorded at Lorain County Records, Instrument No. 2006-0170209, is as follows: (deleted language is crossed out; new language is underlined)

The Board of Directors shall consist of not more than five persons except as otherwise provided in these Bylaws, all of whom must be Owners, or the spouse of an Owner, and occupiers of a Unit, except as provided otherwise in these Bylaws. That notwithstanding, no one Unit may be represented by more than one person on the Board at any one time. If a Unit Owner is not an individual, that Unit Owner may

nominate for the Board of Directors any principal, member of a limited liability company, partner, director, officer, or employee of that Unit Owner.

(8) INSERT a new 2<sup>nd</sup> SENTENCE to the end of BYLAWS ARTICLE II, SECTION 8, entitled "Quorum; Adjournment." Said new addition, to be added on Page 6 of the Bylaws, Exhibit B of the Declaration, as recorded at Lorain County Records, Instrument No. 2006-0170209, 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.

(9) INSERT a new PARAGRAPH h to BYLAWS ARTICLE II, SECTION 2, entitled "Powers, Authorities and Duties." Said new addition to be added on Page 5 of the Bylaws, Exhibit B of the Declaration, as recorded at Lorain County Records, Instrument No. 2006-0170209, 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.

(10) Any conflict between the above provisions and any other provisions of the Declaration and Bylaws shall be interpreted in favor of the above amendments. The invalidity of any part of the above provision shall not impair or affect in any manner the validity or enforceability of the remainder of the provision. 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 The Residence at Morningside Condominium Association, Inc. has caused the execution of this instrument this 12 day of NOVEMBER, 2012.

THE RESIDENCE AT MORNINGSIDE CONDOMINIUM ASSOCIATION, INC.

By: Reed Timko  
REED TIMKO, its President

STATE OF OHIO )  
 )  
COUNTY OF Lorain ) SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named The Residence at Morningside Condominium Association, Inc., by Reed Timko, 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 Lorain, Ohio, this 12<sup>th</sup> day of November 2012.

Place notary stamp/seal here:

Kristy Shepherd  
NOTARY PUBLIC

KRISTY SHEPHERD  
NOTARY PUBLIC • STATE OF OHIO  
Recorded in Lorain County  
My commission expires 12-26-14

This instrument prepared by:  
KAMAN & CUSIMANO, LLC., Attorneys at Law  
2000 Terminal Tower  
50 Public Square  
Cleveland, Ohio 44113  
(216) 696-0650

KAMAN & CUSIMANO ATTORNEYS  
2000 TERMINAL TOWER  
50 PUBLIC SQUARE  
CLEVELAND, OH 44113





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Recorded: 11/19/2009 at 03:20:57 PM  
Fee Amt: \$92.00 Page 1 of 9  
Lorain County, Ohio  
Judith M Nedwick County Recorder  
File 2009-0317173

**TRANSFERRED**  
IN COMPLIANCE WITH SEC. 319-202  
OHIO REV. CODE

NOV 19 2009

*Filed  
JMM*

**MARK R. STEWART**  
LORAIN COUNTY AUDITOR

**Amendment No. 1 to the Declaration for  
The Residence at Morningside Condominium  
Lorain, Ohio**

This Amendment No. 1 ("Amendment No. 1") to the Declaration of Condominium Ownership for The Residence at Morningside Condominium is made at Lorain, Ohio this 5<sup>th</sup> day of November, 2009, by K. Hovnanian Oster Homes, LLC, an Ohio limited liability company, hereinafter "Declarant".

WITNESSETH:

Whereas, on or about October 12, 2006, the Declarant caused a Declaration of Condominium Ownership for The Residence at Morningside Condominium (the "Declaration") to be filed for record as Instrument No. 2006170209 in the records of the Lorain County Recorder; and

Whereas, the Declarant reserved the right to expand the Condominium by amendment and to add all or parts of the Additional Property as provided in Section 23 of the Declaration; and

Whereas, the Declarant reserved the right to amend this Declaration for the purpose of correcting inadvertent errors and making nominal changes as provided in Section 22.2 of the Declaration; and

Whereas, the Declarant executes this Amendment pursuant to the authority vested in the Declarant in Section 23 to add part of the Additional Property to the Condominium and pursuant to the authority vested in Section 22.2 to correct the square footages of the Units referred to in the Declaration and their interests in the Common Elements resulting from said correction and the addition to the Condominium of the Units in the Additional Property; and

Whereas, capitalized terms used herein and not otherwise defined shall have the same meaning as ascribed to them in the Declaration.

NOW THEREFORE, Declarant amends the Declaration as follows.

1. The parcel of land described in Exhibit A, attached hereto and made a part hereof, is a part of the Additional Property. Said parcel of land contains a building ("Building No. 2"). Said land and Building No. 2, are hereby incorporated into and made a part of the Condominium and hereby made subject to the Declaration, By-Laws, related condominium instruments and to all agreements and documents mentioned in the Declaration.

2. Building No. 2 contains twenty-four (24) units. These Units are denominated as Units 25-B-101 through 32-B-108 if located on the first floor, 33-B-201 through 40-B-208 if located on the second floor and 41-B-301 through 48-B-308 if located on the third floor. The Units are described hereinafter and contain at least 681.52 square feet and up to 1,044.21 square feet. The Building consists of units denominated as Units A-1, A-2, B-1, B-1B, B-2, B-2B, C-1, C-2 and D in the Declaration. A-1 Units consist of approximately 681 square feet of space and A-2 Units consist of approximately 701 square feet of space. B-1 Units consist of approximately 1,010 square feet of space, B-1B Units consist of approximately 1,019 square feet of space, B-2 Units consist of approximately 1,036 square feet of space and B-2B Units consist of approximately 1,033 square feet of space. C-1 Units consist of approximately 872 square feet of space and C-2 Units consist of approximately 881 square feet of space. D Units consist of approximately 826 square feet of space. The total number of different types of condominium units (hereinafter referred to as "Units") in the Condominium Property is nine (9). A-1 and A-2 Units will be one bedroom Units. D Units contain one bedroom and a den. All other Units will be two bedroom Units. The addition of these Units brings the total number of Units in the Condominium to 48.

3. Building No. 2 is three stories in height and has a parking garage and is constructed with wood frame with a predominantly vinyl siding exterior with stone veneer and asphalt singled roof. Drywall has been used in connection with the construction of the interior and common walls in Building No. 2. Building No. 2 has common elements which include an elevator, two sets of stairs, a mail room and lobby on the first floor and laundry rooms on the second and third floors and all other areas associated with Building No. 2 as shown in the drawings described below.

4. The Units which were made subject to the terms of the Declaration when originally recorded contain the square footage set forth below and not as mistakenly set forth in the Declaration:

<u>Unit No.</u>	<u>Square Footage</u>
1-A-101	1,016.00
2-A-102	1,019.48
3-A-103	1,016.00
4-A-104	1,019.48
5-A-105	1,016.00
6-A-106	681.52
7-A-107	1,016.00
8-A-108	1,019.48
9-A-201	1,041.87

10-A-202	884.06
11-A-203	880.08
12-A-204	1,044.21
13-A-205	880.08
14-A-206	827.39
15-A-207	1,041.87
16-A-208	884.06
17-A-301	1,041.87
18-A-302	702.04
19-A-303	880.08
20-A-304	1,044.21
21-A-305	880.08
22-A-306	827.39
23-A-307	1,041.87
24-A-308	702.04

5. The Units added to the Condominium contain the square footage as follows:

<u>Unit No.</u>	<u>Square Footage</u>
25-B-101	1,010.86
26-B-102	1,019.53
27-B-103	1,010.86
28-B-104	1,019.53
29-B-105	1,010.86
30-B-106	681.40
31-B-107	1,010.86

32-B-108	1,019.53
33-B-201	1,036.26
34-B-202	872.26
35-B-203	876.66
36-B-204	1,033.37
37-B-205	872.57
38-B-206	826.50
39-B-207	1,036.46
40-B-208	881.13
41-B-301	1,036.26
42-B-302	701.02
43-B-303	873.57
44-B-304	1,042.04
45-B-305	881.04
46-B-306	826.50
47-B-307	1,039.15
48-B-308	706.80

6. Total square footage of all the Units in both Buildings totals 44,732.18 square feet.
7. The undivided interests in the Common Elements of all Units in the Condominium is as follows:

<u>Unit No.</u>	<u>Percentage Interest in the Common Elements</u>
1-A-101	2.2713 %
2-A-102	2.2791 %
3-A-103	2.2713 %

4-A-104	2.2791 %
5-A-105	2.2713 %
6-A-106	1.5236 %
7-A-107	2.2713 %
8-A-108	2.2791 %
9-A-201	2.3291 %
10-A-202	1.9763 %
11-A-203	1.9674 %
12-A-204	2.3344 %
13-A-205	1.9674 %
14-A-206	1.8497 %
15-A-207	2.3291 %
16-A-208	1.9763 %
17-A-301	2.3291 %
18-A-302	1.5694 %
19-A-303	1.9674 %
20-A-304	2.3344 %
21-A-305	1.9674 %
22-A-306	1.8497 %
23-A-307	2.3291 %
24-A-308	1.5694 %
25-B-101	2.2598 %
26-B-102	2.2792 %
27-B-103	2.2598 %
28-B-104	2.2792 %

**UNOFFICIAL**

29-B-105	2.2598 %
30-B-106	1.5233 %
31-B-107	2.2598 %
32-B-108	2.2792 %
33-B-201	2.3166 %
34-B-202	1.9500 %
35-B-203	1.9598 %
36-B-204	2.3101 %
37-B-205	1.9507 %
38-B-206	1.8477 %
39-B-207	2.3170 %
40-B-208	1.9698 %
41-B-301	2.3166 %
42-B-302	1.5671 %
43-B-303	1.9529 %
44-B-304	2.3295 %
45-B-305	1.9696 %
46-B-306	1.8477 %
47-B-307	2.3230 %
48-B-308	1.5801 %

8. The proportionate share of the Common Surplus, Common Expenses and voting power of each Unit shall be equal to the percentage interest in the Common Elements as set forth in Paragraph 7 above.

9. Supplementary drawings shall accompany this Amendment at the time the Amendment is recorded.

**UNOFFICIAL**


10. As provided in Section 23.17 of the Declaration, upon the filing for record of this Amendment:

- (a) The Units in Building No. 2 shall be subject to all of the terms and provisions of the Declaration, to the same extent and with the same effect as if Building No. 2 had originally been part of the Condominium Property, that is, the rights, easements, covenants, restrictions and assessment plan set forth in the Declaration shall run with and bind Building No. 2 in the same manner, to the same extent and with the same force and effect as the terms of this Declaration apply to the Condominium Property, as defined in the Declaration; and
- (b) The owner or owners of Building No. 2 shall be members of the Association, to the same extent, with the same effect, subject to the same obligations and entitled to the same rights as all other members; and
- (c) In all other respects, all of the provisions of this Declaration shall include and apply to all Units in Building No. 2, and to the owners, mortgagees and lessees thereof, with equal meaning and of like force and effect.

11. In all other respects, the Declaration remains unaltered and unamended.

Executed by this 5<sup>TH</sup> day of November, 2009.

K. Hovnarian Oster Homes, LLC

By   
Thomas J. Oster, Co-President

**UNOFFICIAL**

STATE OF OHIO )  
 ) SS:  
COUNTY OF LORAIN )

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named K. Hovnanian Oster Homes, LLC, by and through Thomas J. Oster, its duly authorized Co-President, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed as manager and the free act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Lorain, Ohio this 5<sup>th</sup> day of November, 2009.

*Kriste Radway*  
\_\_\_\_\_  
Notary Public

*This Instrument Prepared By:*  
*Timothy S. Triglio, Esq.*  
*Triglio & Stephenson, P.L.L.*  
*5750 Cooper Foster Park Road, W, Suite 102*  
*Lorain, Ohio 44053-4132*  
*(440) 988-9500*



KRISTE RADWAY  
NOTARY PUBLIC  
STATE OF OHIO  
Recorded in  
Lorain County  
My Comm. Exp. 3/25/11

**UNOFFICIAL**

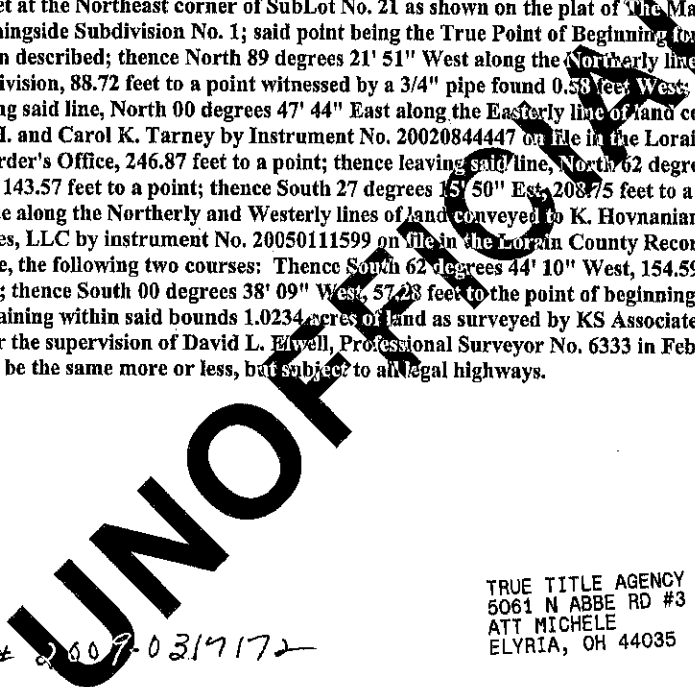


EXHIBIT "A"

Situated in the City of Lorain, County of Lorain and State of Ohio and known as being a part of Original Black River Township Lot No. 1, Tract No. 3, and part of the lands conveyed to Oster Construction, Inc. by Instrument No. 20040006210 on file in the Lorain County Recorder's Office and more definitely described as follows:

Commencing at the Northern most intersection of the centerlines of Morningside Way and Cardinal Court as shown by the plat of The Manors at Morningside Subdivision No. 1 as recorded in Volume 85, Pages 60-63 of Lorain County Plat Records; thence North 46 degrees 19' 13" West along the centerline of Cardinal Court, 69.40 feet to a point of curvature; thence continuing along said centerline and along the arc of a curve which deflects to the left, 90.15 feet to a point, said curve having a radius of 120.00 feet, a central angle of 43 degrees 02' 39", and a chord of 88.05 feet which bears North 67 degrees 50' 32" West; thence leaving said centerline, North 00 degrees 38' 09" East, 150.00 feet to an iron pin set at the Northeast corner of SubLot No. 21 as shown on the plat of The Manors at Morningside Subdivision No. 1; said point being the True Point of Beginning for the parcel herein described; thence North 89 degrees 21' 51" West along the Northerly line of said Subdivision, 88.72 feet to a point witnessed by a 3/4" pipe found 0.58 feet West; thence leaving said line, North 00 degrees 47' 44" East along the Easterly line of land conveyed to Lee H. and Carol K. Tarney by Instrument No. 20020844447 on file in the Lorain County Recorder's Office, 246.87 feet to a point; thence leaving said line, North 62 degrees 44' 10" East, 143.57 feet to a point; thence South 27 degrees 15' 50" East, 208.75 feet to a point; thence along the Northerly and Westerly lines of land conveyed to K. Hovnanian Oster Homes, LLC by instrument No. 20050111599 on file in the Lorain County Recorder's Office, the following two courses: Thence South 62 degrees 44' 10" West, 154.59 feet to a point; thence South 00 degrees 38' 09" West, 57.23 feet to the point of beginning.

Containing within said bounds 1.0234 acres of land as surveyed by KS Associates, Inc. under the supervision of David L. Elwell, Professional Surveyor No. 6333 in February 2006, be the same more or less, but subject to all legal highways.



PLAT # 2009-0317172

TRUE TITLE AGENCY INC  
 5061 N ABBE RD #3  
 ATT MICHELE  
 ELYRIA, OH 44035