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DECL - 202306020213 PGS: 1

06/02/2023 10:42 AM

AMT: \$0.00

RCPT#: 20230602000053

CONV: \$0.00

PAID BY: KAMAN & CUSIMANO, LI

*Heidi Chamber*

CUYAHOGA COUNTY FISCAL OFFICE

AMENDMENTS TO THE  
DECLARATION OF CONDOMINIUM OWNERSHIP  
FOR  
INDEPENDENCE PLACE WEST CONDOMINIUM

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF CONDOMINIUM OWNERSHIP FOR INDEPENDENCE PLACE WEST CONDOMINIUM RECORDED AT VOLUME 13357, PAGE 333 ET SEQ. OF THE CUYAHOGA COUNTY RECORDS.

**AMENDMENTS TO THE  
DECLARATION OF CONDOMINIUM OWNERSHIP FOR  
INDEPENDENCE PLACE WEST CONDOMINIUM**

**RECITALS**

- A. The Declaration of Condominium Ownership for Independence Place West Condominium (the "Declaration") and the Bylaws of Independence Place West Condominium Owners Association, Inc., Exhibit A of the Declaration (the "Bylaws"), were recorded at Cuyahoga County Records Volume 13357, Page 333 et seq.
- B. Ohio Revised Code Section 5311.05(E)(1)(c) authorizes the Board of Directors (the "Board"), without a vote of the Family Unit owners, to amend the Declaration "to bring the Declaration into compliance with this Chapter."
- C. The Board approved the following matters to be modified (the "Amendments") to bring the Declaration into compliance with Ohio Revised Code Chapter 5311 ("Chapter 5311").
- D. Each of the changes set forth in these Amendments are based on or in accordance with Chapter 5311.
- E. The proceedings necessary to amend the Declaration and Bylaws as permitted by Chapter 5311 and the Declaration have in all respects been complied with.

**AMENDMENTS**

The Declaration of Condominium Ownership for Independence Place West Condominium is amended by the Board of Directors as follows:

- (1) **INSERT a NEW PARAGRAPH to the end of DECLARATION ARTICLE XVIII, SECTION E.** Said new addition to the Declaration, as recorded at the Cuyahoga County Records, Volume 13357, Page 333 et seq., and as amended at Instrument No. 200502110071, is:

**The Board will impose the following enforcement procedure:**

- (1) **Prior to imposing a charge for damages or an enforcement assessment, the Board will give the Family Unit owner a written notice, which may be in the form of electronic mail to an electronic mail address previously provided by the owner in writing, that includes:**

- (i) A description of the property damage or violation;
  - (ii) The amount of the proposed charge or assessment;
  - (iii) A statement that the Family Unit owner has a right to a hearing before the Board to contest the proposed charge or assessment;
  - (iv) A statement setting forth the procedures to request a hearing;
  - (v) A reasonable date by which the Family Unit owner must cure the violation to avoid the proposed charge or assessment.
- (2) **Hearing Requirements:**
- (i) To request a hearing, the Family Unit owner must deliver a written notice to the Board not later than the tenth day after receiving the notice required above. If the Family Unit owner fails to make a timely request for a hearing, the right to that hearing is waived, and the Board may immediately impose a charge for damages or an enforcement assessment.
  - (ii) If a Family Unit owner timely requests a hearing, at least seven days prior to the hearing the Board will provide the Family Unit owner with a written notice that includes the date, time, and location of the hearing.
  - (iii) The Board will not levy a charge or assessment before holding a properly requested hearing.
- (3) The Board may allow a reasonable time to cure a violation described above before imposing a charge or assessment.
- (4) Within 30 days following a hearing at which the Board imposes a charge or assessment, the Association will deliver a written notice of the charge or assessment to the Family Unit owner.

(5) The Association will deliver any written notice required above to the Family Unit owner or any occupant of the Unit by personal delivery, by electronic mail, by certified mail, return receipt requested, or by regular mail.

(2) **MODIFY THE 1st SENTENCE of DECLARATION ARTICLE XIV, SECTION E.** Said modification to the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 et seq., is: (new language is underlined)

The continuing lien provided for in Section D of this Article shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of bona fide first mortgages which have been theretofore filed for record, and may be foreclosed in the same manner as a mortgage on real property in an action brought by the Association.

(3) **MODIFY THE 1st SENTENCE of the 1st PARAGRAPH of DECLARATION ARTICLE XIV, SECTION D.** Said modification to the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 et seq., and as amended at Instrument No. 200502110071, is: (new language is underlined)

The Association shall have a continuing lien upon the estate or interest in any Family Unit of the owner thereof, its percentage of interest in the Common Elements and his right to use any garage space for the payment of the portion of the common expenses chargeable against such Family Unit which remain unpaid for ten (10) days after the same have become due and payable from the time a certificate therefor, subscribed by the President or other designated representative of the Association, is filed with the Recorder of Cuyahoga County, Ohio pursuant to authorization given by the Board of Directors of the Association.

(4) **INSERT a NEW PARAGRAPH to the end of BYLAWS ARTICEL IX, SECTION 1.** Said new addition to the Bylaws, Exhibit A of the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 et seq., is:

The Association, as determined by the Board, is not required to permit the examination and copying of any of the following from books, records, or minutes that contain any of the following:

(a) Information that pertains to Condominium Property-related personnel matters;

(b) Communications with legal counsel or attorney work product pertaining to pending litigation or other Condominium Property-related matters;

(c) Information that pertains to contracts or transactions currently under negotiation, or information that is contained in a contract or other agreement containing confidentiality requirements and that is subject to those requirements;

(d) Information that relates to the enforcement of the Declaration, Bylaws, or Association rules and regulations against a Family Unit owner;

(e) Information the disclosure of which is prohibited by state or federal law; or

(f) Records that date back more than five years prior to the date of the request.

(5) **MODIFY BYLAWS ARTICLE II, SECTION 2** entitled **“NUMBER AND QUALIFICATION.”** Said modification to the Bylaws, Exhibit A of the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 et seq., is: (deleted language is crossed out; new language is underlined)

**Section 2. NUMBER AND QUALIFICATION.** The Board of Directors shall consist of five (5) persons, except as otherwise provided all of whom must be owners or the spouse of an owner persons who could be heirs-at-law of the owner under the Ohio statutes of descent and distribution, and occupiers of a unit. If a Family Unit owner is not an individual, that Family Unit owner may nominate for the Board of Directors any principal, member of a limited liability company, partner, director, officer, or employee of that Family Unit owner. The majority of the Board will not consist of Family Unit owners or representatives from the same Family Unit unless authorized by a resolution adopted by the Board of Directors prior to the Board majority being comprised of Family Unit owners or representatives from the same Family Unit. In addition to the rights reserved to Declarant under Section 1 of Article VIII, so long as Declarant shall own any units, it shall be entitled to designate no less than one (1) member of the Board of Directors. No candidate designated by or nominated and elected by Declarant need be an owner or occupier of a unit.

(6) **INSERT a NEW DECLARATION ARTICLE XI, SECTION C entitled "BOARD AMENDMENTS."** Said new addition to the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 et seq., is:

**C. BOARD AMENDMENTS. Notwithstanding the above, without a Family Unit owner vote, the Board may amend the Declaration in any manner necessary for any of the following purposes:**

- (1) **To meet the requirements of institutional mortgagees, guarantors and insurers of first mortgage loans, the federal national mortgage association, the federal home loan mortgage corporation, the federal housing administration, the veterans administration, and similar institutions;**
- (2) **To meet the requirements of insurance underwriters;**
- (3) **To bring the Declaration into compliance with the Ohio Condominium Act (Revised Code Chapter 5311);**
- (4) **To correct clerical or typographical errors or obvious factual errors in the Declaration or an exhibit to the Declaration;**
- (5) **To designate a successor to the person named to receive service of process for the Association. If the Association is incorporated in Ohio, this may be accomplished by filing with the Secretary of State an appropriate change of statutory agent designation;**
- (6) **To delete as void, any provision within the Declaration or Bylaws, or in any applicable restriction or covenant, that prohibits, limits the conveyance, encumbrance, rental, occupancy, or use of property subject to Revised Code Chapter 5311 on the basis of race, color, national origin, sex, religion, or familial status; or**
- (7) **To permit notices to Family Unit owners, as required by the Declaration or Bylaws, to be sent by electronic mail and, if returned undeliverable, by regular mail, provided the association has received the prior, written authorization from the Family Unit owner.**

Any Family Unit owner who is aggrieved by an amendment to the Declaration that the Board of Directors makes in accordance with the above may commence a declaratory judgment action to have the amendment declared invalid as violative of the above. Any action filed to contest the validity of the amendment must be filed in the appropriate court of common pleas within one year from the date of the recordation of the amendment.

(7) **MODIFY BYLAWS ARTICLE II, SECTION 4(b).** Said modification to the Bylaws, Exhibit A of the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 et seq., and as amended at Instrument No. 200502110071, is: (deleted language is crossed out; new language is underlined)

(b) Commence, defend, intervene in, settle, or compromise any civil, criminal, land use planning 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 Family Unit owners, impacts zoning, or otherwise ~~and~~ relates to matters affecting the Condominium Property;

(8) **INSERT A NEW DECLARATION ARTICLE XX, SECTION K.** Said new addition to the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 et seq., is:

**K.** All notices required or permitted by the Declaration or Bylaws to any Family Unit owner will be in writing and is deemed effectively given if it has been sent by regular U.S. mail, first-class postage prepaid, to their Family Unit address or to another address the Family Unit owner designates in writing to the Board, or delivered using electronic mail subject to the following:

- (1) The Association may use electronic mail or other transmission technology to send any required notice only to Family Unit owners, individually or collectively, who have given the Association written consent to the use of electronic mail or other transmission technology. Any Family Unit owner who has not given the Association written consent to use of electronic mail or other transmission technology will receive notices by either regular mail or hand delivered.
- (2) An electronic mail or transmission technology to a Family Unit owner is not considered delivered and effective if the Association's transmission to the Family Unit owner fails, e.g. the Association receives an "undeliverable" or similar

message, or the inability to deliver the transmission to the Family Unit owner becomes known to the person responsible for sending the transmission. If the electronic mail or transmission is not delivered or effective, the Association will deliver the notice or other communication to the Family Unit owner by either regular mail or hand delivered.

(9) **MODIFY 1st SENTENCE of BYLAWS ARTICLE V, SECTION 3.** Said modification to the Bylaws, Exhibit A the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 et seq., is: (new language is underlined)

The Association shall build up and maintain a reasonable reserve for contingencies and replacements in an amount deemed adequate by the Board to maintain a reserve for the cost of unexpected repairs and replacements of capital improvements and for the repair and replacement of major improvements in the normal course of operations without the necessity of special assessments, unless the Unit Owners, exercising not less than a majority of the voting power of the Association, waive the reserve requirement in writing annually.

(10) **INSERT A NEW PARAGRAPH to the end of BYLAWS ARTICLE IV, SECTION 1(e).** Said new addition to the Bylaws, Exhibit A of the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 et seq., is:

The Board must maintain blanket fidelity, crime, or dishonesty insurance coverage for any person who controls or disburses association funds. As used in this section, "person who controls or disburses association funds" means any individual with authority or access to sign checks, conduct electronic transfers, or otherwise withdraw funds from any association account or deposit, including the following:

- (1) A management company's principals and employees;
- (2) A bookkeeper;
- (3) The president, secretary, treasurer, any other board member, or employee of the unit owners association.

All of the following apply to the insurance coverage required under this section:



(a) Coverage shall be for the maximum amount of funds that will be in the custody of the association or its designated agent at any one time plus three months of operating expenses.

(b) The insurance shall be the property of and for the sole benefit of the association and shall protect against theft, embezzlement, misappropriation, or any other unauthorized taking or loss of association funds.

(c) The policy shall include in its definition of "employee" the manager and the managing agent of the association's funds or provide for this inclusion by an endorsement to the policy.

(d) The policy shall name the association as the insured party and shall include a provision requiring the issuer of the policy to provide a ten-day written notice to the association's president or manager in the event of cancellation or substantial modification of the policy. The manager or managing agent, if any, of the association shall be the designated agent on the policy.

(e) If there is a change in the manager or the managing agent of the association, then within ten days of the effective start date, the new manager or managing agent shall notify the insurer of such change.

Any conflict between the above provisions and any other provisions of the Declaration and Bylaws will be interpreted in favor of the above amendments. The invalidity of any part of the above provision will not impair or affect in any manner the validity or enforceability of the remainder of the provision. Upon the recording of these amendments, only Family Unit owners of record at the time of the filing have standing to contest the validity of this amendment, whether on procedural, substantive, or any other grounds. Any challenge to the validity of this amendment must be brought in the court of common pleas within one year of the recording of this amendment.





CUYAHOGA COUNTY RECORDER  
LILLIAN J GREENE - 6  
DECL 4/13/2009 2:40:42 PM  
**200904130577**

AMENDMENT TO THE  
DECLARATION OF CONDOMINIUM OWNERSHIP  
FOR  
INDEPENDENCE PLACE WEST CONDOMINIUM

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF  
CONDOMINIUM OWNERSHIP FOR INDEPENDENCE PLACE WEST  
CONDOMINIUM RECORDED AT VOLUME 13357, PAGE 333 ET SEQ., OF THE  
CUYAHOGA COUNTY RECORDS.

**AMENDMENT TO THE**  
**DECLARATION OF CONDOMINIUM OWNERSHIP FOR**  
**INDEPENDENCE PLACE WEST CONDOMINIUM**

WHEREAS, the Declaration of Condominium Ownership for Independence Place West Condominium (the "Declaration") and the By-Laws of Independence Place West Condominium Owners Association, Inc. (the "Bylaws"), Exhibit A to the Declaration, were recorded at Cuyahoga County Records Volume 13357, Page 333 et seq., and

WHEREAS, the Independence Place West Condominium Owners Association, Inc. (the "Association") is a corporation consisting of all Owners in Independence Place West and as such is the representative of all Owners, and

WHEREAS, Article XI, Section B of said Declaration authorizes amendments to the Declaration and Bylaws, and

WHEREAS, Owners representing no less than 75% of the Association's voting power have executed instruments in writing setting forth specifically the matter to be modified (the "Amendment"), and

WHEREAS, the Association has in its records the signed, written consents to the Amendment signed by Owners representing 76.152% of the Association's voting power as of March 4, 2009, and

WHEREAS, the Association has in its records the power of attorney signed by Owners representing 76.152% of the Association's voting power authorizing the Association's officers to execute the Amendment on their behalf, and

WHEREAS, attached hereto as Exhibit A is an Affidavit of the Association's President that copies of the Amendment will be mailed by certified mail to all mortgagees on the records of the Association once the Amendment is recorded with the Cuyahoga County Recorder's Office, and

WHEREAS, attached hereto as Exhibit B is a certification from the Association's Secretary as to the consenting mortgagees, on the records of the Association, to the Amendment, and

WHEREAS, the proceedings necessary to amend the Declaration as required by Chapter 5311 of the Ohio Revised Code and the Declaration have in all respects been complied with.

NOW THEREFORE, the Declaration of Condominium Ownership for Independence Place West Condominium is hereby amended by the following:

INSERT NEW THIRD AND FOURTH SENTENCES to the 1<sup>st</sup> PARAGRAPH of DECLARATION ARTICLE IV entitled, "GENERAL DESCRIPTION OF BUILDINGS." Said new addition, to be added on Page 6 of the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 et seq., is as follows:

After the recording of this amendment, the Board of Directors shall have the authority to substitute such aluminum siding with vinyl siding or other similar type replacement material as the Board reasonably determines is in the Association's best interest. If the Board substitutes vinyl or other similar material for the aluminum siding, the Board shall not again alter the exterior siding materials, except as necessary for the maintenance, repair and replacement of such siding, without approval from at least a majority of the Association's voting power.

Any conflict between this provision and other provisions of the Declaration and Bylaws shall be interpreted in favor of this provision to permit the Board to substitute the aluminum siding with vinyl siding. Upon the recording of this amendment, only Owners of record at the time of such filing shall have standing to contest the validity of the amendment, whether on procedural, substantive or any other grounds, provided further that any such challenge shall be brought within one year of the recording of the amendment.





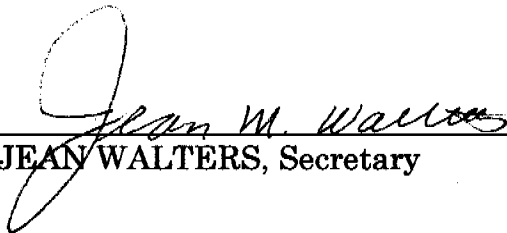


EXHIBIT B

CERTIFICATION OF SECRETARY

The undersigned, being the duly elected and qualified Secretary of the Independence Place West Condominium Owners Association, Inc., hereby certifies that there is on file in the Association's records, the names of the following mortgagees, if any, who have consented to the proposed Amendment to the Declaration.

NONE

  
\_\_\_\_\_  
JEAN WALTERS, Secretary

STATE OF OHIO                    )  
  )  
COUNTY OF Cuyahoga        )

SS

BEFORE ME, a Notary Public in and for said County, personally appeared the above named JEAN WALTERS who acknowledged that she did sign the foregoing instrument and that the same is her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal in North Royalton Ohio, this 10<sup>th</sup> day of April, 2009.

  
\_\_\_\_\_  
NOTARY PUBLIC

Barbara S. Petrillo  
Notary Public, State of Ohio  
My Commission Expires 9-28-11



CUYAHOGA COUNTY RECORDER  
PATRICK J. O'MALLEY  
DECL 02/11/2005 10:17:46 AM  
**200502110071**

AMENDMENTS TO THE  
DECLARATION OF CONDOMINIUM OWNERSHIP  
FOR  
INDEPENDENCE PLACE WEST CONDOMINIUM

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF  
CONDOMINIUM OWNERSHIP FOR INDEPENDENCE PLACE WEST  
CONDOMINIUM RECORDED AT VOLUME 13357, PAGE 333 ET SEQ. OF THE  
CUYAHOGA COUNTY RECORDS.

**AMENDMENTS TO THE**  
**DECLARATION OF CONDOMINIUM OWNERSHIP FOR**  
**INDEPENDENCE PLACE WEST CONDOMINIUM**

WHEREAS, the Declaration of Condominium Ownership for Independence Place West Condominium (the "Declaration") and the Bylaws of Independence Place West Condominium (the "Bylaws"), Exhibit A to the Declaration, were recorded at Cuyahoga County Records Volume 13357, Page 333 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 as permitted by Chapter 5311 of the Ohio Revised Code and the Declaration of Condominium Ownership for Independence Place West Condominium have in all respects been complied with.

NOW THEREFORE, the Declaration of Condominium Ownership for Independence Place West 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" shall be replaced with the term "Board of Directors."
- (4) INSERT a new SECTION E, entitled "ENFORCEMENT ASSESSMENTS," to the end of DECLARATION ARTICLE XVIII. Said new addition, to be added on Page 29 of the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 et seq., is as follows:

**E. 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.

(5) INSERT a new 2<sup>nd</sup> PARAGRAPH to the end of DECLARATION ARTICLE XIV, SECTION D, entitled "LIEN OF ASSOCIATION." Said new addition, to be added on Page 21 of the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 et seq., is as follows:

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

(6) INSERT a new PARAGRAPH to the end of DECLARATION ARTICLE III, SECTION B(11), entitled "RENTAL OF FAMILY UNITS." Said new addition, to be added on Page 6 of the Declaration, as recorded at Cuyahoga County Records, 13357, Page 333 et seq., 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 Family Unit and made a lien against that Family Unit.

(7) INSERT a new 2<sup>nd</sup> PARAGRAPH to the end of DECLARATION ARTICLE XIV, SECTION A, entitled "GENERAL." Said new addition, to be added on Page 20 of the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 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 Family Unit.

(8) INSERT a new 2<sup>nd</sup> PARAGRAPH to BYLAWS ARTICLE V, SECTION 8, entitled "REMEDIES FOR FAILURE TO PAY ASSESSMENTS," to. Said new addition, to be added on Page 15 of the Bylaws, Exhibit A of the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 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.

(9) INSERT a new 2<sup>nd</sup> PARAGRAPH to the end of BYLAWS ARTICLE VII, SECTION 4, entitled "SPECIAL SERVICES." Said new addition, to be added on Page 18 of the Bylaws, Exhibit A of the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 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.

(10) INSERT a new 2<sup>nd</sup> SENTENCE to the end of BYLAWS ARTICLE II, SECTION 7(b), entitled "REGULAR MEETINGS." Said new addition, to be added on Page 7 of the Bylaws, Exhibit A of the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 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.

(11) INSERT a new SENTENCE to the end of the 1<sup>st</sup> PARAGRAPH of BYLAWS ARTICLE VI, entitled "COMMON PROFITS." Said new addition, to be added on Page

17 of the Bylaws, Exhibit A of the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 et seq., 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.

(12) INSERT a new 2<sup>nd</sup> PARAGRAPH to BYLAWS ARTICLE II, SECTION 4, entitled "POWERS AND DUTIES OF THE BOARD OF MANAGERS," and INSERT new SUBPARAGRAPHS (a), (b), (c), (d), (e), (f), (g) and (h), thereafter. Said new additions to be added on Page 6 of the Bylaws, Exhibit A of the Declaration, as recorded at Cuyahoga County Records, Volume 13357, Page 333 et seq., is as follows:

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:

(a) 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;

(b) 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;

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

(d) Adopt rules that regulate the use or occupancy of Family Units, the maintenance, repair, replacement, modification, and appearance of Family Units, Common Elements, and Limited Common Elements when the actions regulated by those rules affect Common Elements or other Family Units;

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

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

(g) Purchase insurance and fidelity bonds the Board considers appropriate or necessary; and

(h) 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 Independence Place West Condominium Owners Association, Inc. has caused the execution of this instrument this 9<sup>th</sup> day of February, 2005.

INDEPENDENCE PLACE WEST CONDOMINIUM OWNERS ASSOCIATION, INC.

By: James Branca 2-8-05  
JAMES BRANCA, its President



STATE OF OHIO )  
 )  
COUNTY OF CUYAHOGA ) SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named Independence Place West Condominium Owners Association, Inc., by James Branca, 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 North Lakota Ohio, this 9<sup>th</sup> day of February, 2005.

Barbara S. Petrillo  
NOTARY PUBLIC

Barbara S. Petrillo  
Notary Public, State of Ohio  
My Commission Expires 9-26-2006

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



CUYAHOGA COUNTY RECORDER  
PATRICK J. OMALLEY  
DECL 05/13/1999 03:48:51 PM  
**199905131064**

AMENDMENTS TO THE  
DECLARATION OF CONDOMINIUM OWNERSHIP FOR  
INDEPENDENCE PLACE WEST CONDOMINIUM

CUYAHOGA COUNTY RECORDER  
~~199905131064~~ PAGE 1 of 8

AMENDMENT TO THE  
DECLARATION OF CONDOMINIUM OWNERSHIP FOR  
INDEPENDENCE PLACE WEST CONDOMINIUM

**WHEREAS**, the Declaration of Condominium Ownership for Independence Place West Condominium was recorded at Volume 13357, Page 357 et seq., of Cuyahoga County Records, and

**WHEREAS**, the Independence Place West Condominium Owners Association, Inc. is a corporation consisting of all Unit Owners in Independence Place West Condominium and as such is the representative of all owners, and

**WHEREAS**, Article XI of said Declaration authorizes amendments to the Declaration, and

**WHEREAS**, Unit Owners in excess of 75% of the voting power of the Association have executed instruments in writing setting forth specifically the new matters to be added, and

**WHEREAS**, attached hereto as Exhibit A is an Affidavit of the President of the Association that copies of the amendments were mailed by certified mail to all mortgagees on the records of the Association having bona fide liens of record against any Unit ownership, and

**WHEREAS**, the Association has in its records the consents to Amendment A signed by 75.200% of the Unit Owners and further has in its records the consents, if any, of the mortgagees as certified by the Secretary in the attached Exhibit B, and

**WHEREAS**, the Association has in its records the power of attorney signed by 75.200% of the Unit Owners authorizing the officers of the Independence Place West Condominium Owners Association, Inc. to execute Amendment A on their behalf, and

**WHEREAS**, the Association has in its records the consents to Amendment B signed by 76.752% of the Unit Owners and further has in its records the consents, if any, of the mortgagees as certified by the Secretary in the attached Exhibit B, and

**WHEREAS**, the Association has in its records the power of attorney signed by 76.752% of the Unit Owners authorizing the officers of the

Independence Place West Condominium Owners Association, Inc. to execute Amendment B on their behalf, and

WHEREAS, the proceedings necessary to amend the Declaration and Bylaws as required by Chapter 5311 of the Ohio Revised Code and the Declaration of Condominium Ownership for Independence Place West Condominium have in all respects been complied with,

NOW THEREFORE, the Declaration of Condominium Ownership for Independence Place West Condominium is hereby amended by the following:

AMENDMENT A

INSERT a new DECLARATION Article XVIII, Section C. entitled, "COST OF COLLECTION." Said new addition to be added on Page 29 of the Declaration as recorded in Cuyahoga County Records Volume 13357, Page 357 et seq. is as follows:

C. COST OF COLLECTION. A delinquent Unit Owner shall also be liable for any and all costs incurred by the Association in connection with the collection of the delinquent owner's account, including reasonable attorney fees, recording costs, title reports and/or court costs.

~~INSERT a new DECLARATION Article XVIII, Section D. entitled, "COST OF ENFORCEMENT."~~ Said new addition to be added on Page 29 of the Declaration as recorded in Cuyahoga County Records Volume 13357, Page 357 et seq. is as follows:

D. COST OF ENFORCEMENT. If any Unit Owner (either by his or her conduct or by the conduct of any occupant of his or her unit) shall violate any provision of the Declaration, Bylaws or any rule adopted, said Unit Owner shall pay to the Association, in addition to any other sums due, all costs and expenses incurred by the Association in connection with the enforcement of said provision or rule, including reasonable attorney fees and/or court costs.

Any conflict between these provisions and any other provisions of the Declaration and Bylaws shall be

interpreted in favor of this amendment regarding the cost of collection and cost of enforcement. Upon the recording of this amendment, only Unit Owners of record at the time of such filing shall have standing to contest the validity of the amendment, whether on procedural, substantive or any other grounds, provided further that any such challenge shall be brought within one year of the recording of the amendment.

AMENDMENT B

MODIFY the last sentence of ARTICLE I, SECTION 5, PARAGRAPH (a) of the BYLAWS, entitled "ANNUAL MEETING." Said modification, to be made on Page 3 of the Bylaws, Exhibit A of the Declaration, recorded at Cuyahoga County Records Volume 13357, Page 357 et seq., is as follows (deleted language is struck-through; new language is underlined):

(a) ANNUAL MEETING. ~~Thereafter~~ Beginning in 1999 and in each succeeding year thereafter, the annual meeting of the Association shall be held ~~in each succeeding year thereafter,~~ on the first Tuesday of the month ~~in which the first annual meeting was held~~ of May, if not a legal holiday and, if a legal holiday, then on the succeeding business day.

Any conflict between this provision and any other provision of the Declaration and Bylaws shall be interpreted in favor of this amendment changing the month of the annual meeting to May. Upon the recording of this amendment, only Unit Owners of record at the time of such filing shall have standing to contest the validity of the amendment, whether on procedural, substantive or any other grounds, provided further that any such challenge shall be brought within one year of the recording of the amendment.

IN WITNESS WHEREOF, the said Independence Place West Condominium Owners Association, Inc. has caused the execution of this instrument this 11 day of May, 1999.

INDEPENDENCE PLACE WEST CONDOMINIUM OWNERS ASSOCIATION, INC.

Signed and acknowledged  
in the presence of both:

Beatrice Nixon

Witness #1:

BEATRICE NIXON

Bryan J. Hall

Witness #2:

BRYAN J. HALL

By: Sharon Dreger  
SHARON DREGER, its President

By: Jean M. Walters  
JEAN WALTERS, its Secretary

This instrument prepared by:  
DAVID W. KAMAN, Esq.  
Kaman & Ott, Attorneys at Law  
50 Public Square  
600 Terminal Tower  
Cleveland, Ohio 44113  
(216) 696-0650






EXHIBIT A

AFFIDAVIT

STATE OF OHIO )  
 ) SS  
COUNTY OF CUYAHOGA )


~~SHARON DREGER~~, being first duly sworn, states as follows:

1. She is the duly elected and acting President of the Independence Place West Condominium Owners Association, Inc.
2. As such President, she caused copies of the amendments to the Declaration of Independence Place West Condominium to be mailed by certified mail to all mortgagees on the record of the Association having bona fide liens of record against any Unit Ownership.
3. Further affiant sayeth naught.

  
\_\_\_\_\_  
SHARON DREGER, President

BEFORE ME, a Notary Public in and for said County, personally appeared the above named **SHARON DREGER** who acknowledges that she did sign the foregoing instrument and that the same is her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at North Royalton, Ohio, this 11 day of May, 1999.

  
\_\_\_\_\_  
NOTARY PUBLIC

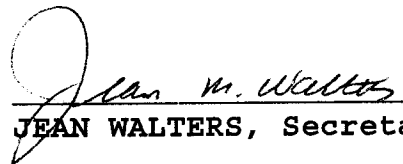
BARBARA S. PETRILLO  
Notary Public, State of Ohio  
My Commission Expires Sept. 26, 2001

EXHIBIT B

CERTIFICATION OF SECRETARY

The undersigned, being the duly elected and qualified Secretary of the Independence Place West Condominium Owners Association, Inc., hereby certifies that there is on file in the records of the Association, the names of the following mortgagees, if any, who have consented to the proposed Amendments to the Declaration of Independence Place West Condominium.

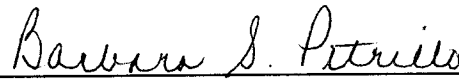
N O N E

  
\_\_\_\_\_  
JEAN WALTERS, Secretary

STATE OF OHIO            )  
                                  )     SS  
COUNTY OF CUYAHOGA    )

BEFORE ME, a Notary Public in and for said County, personally appeared the above named **JEAN WALTERS** who acknowledged that she did sign the foregoing instrument and that the same is her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at North Royalton, Ohio, this 11 day of May, 1999.

  
\_\_\_\_\_  
NOTARY PUBLIC

BARBARA S. PETRILLO  
Notary Public, State of Ohio  
My Commission Expires Sept. 26, 2001



282444

RECORDED THIS DATE  
FRANK RUSSO  
CUYAHOGA CTY RECORDER

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IX

VOL. 96-06275 PAGE 31

AMENDMENT TO THE  
DECLARATION OF CONDOMINIUM OWNERSHIP FOR THE  
INDEPENDENCE PLACE WEST CONDOMINIUM

**AMENDMENT TO THE**  
**DECLARATION OF CONDOMINIUM OWNERSHIP FOR THE**  
**INDEPENDENCE PLACE WEST CONDOMINIUM**

**WHEREAS**, the Declaration of Condominium Ownership for the Independence Place West Condominium was recorded in Volume 13357, Page 357 et seq. of Cuyahoga County Records, and

**WHEREAS**, the Independence Place West Condominium Owners Association, Inc. is a corporation consisting of all Family Unit Owners in the Independence Place West Condominium and as such is the representative of all owners, and

**WHEREAS**, Article XI of said Declaration authorizes amendments to the Declaration, and

**WHEREAS**, Family Unit Owners in excess of 75% of the voting power of the Owners Association have executed an instrument in writing setting forth specifically the new matter to be added, and

**WHEREAS**, attached hereto as Exhibit A is an Affidavit of the President of the Owners Association that a copy of the amendment was mailed by certified mail to all mortgagees on the records of the Owners Association having bona fide liens of record against any Family Unit ownership, and

**WHEREAS**, attached hereto as Exhibit B is a certification of the Secretary of the Owners Association as to the names of the consenting and non-consenting mortgagees of the various Family Units, and

**WHEREAS**, the Owners Association has in its records the signed consents to the Amendment signed by 75.743% of the Family Unit Owners and further has in its records the consents, if any, of the mortgagees as certified by the Secretary in the attached Exhibit B, and

**WHEREAS**, the Owners Association has in its records the power of attorney signed by 75.743% of the Family Unit Owners authorizing the officers of the Independence Place West Condominium Owners Association, Inc. to execute this recorded document on their behalf, and

**WHEREAS**, the proceedings necessary to amend the Declaration as required by Chapter 5311 of the Ohio Revised Code and the Declaration of Condominium Ownership for the Independence Place West Condominium have in all respects been complied with,

**NOW THEREFORE**, the Declaration of Condominium Ownership of the Independence Place West Condominium is hereby amended by the following:

**DELETE DECLARATION ARTICLE XII, SECTION B, PARAGRAPH (1) entitled FAMILY UNIT OWNER in its entirety as contained on Page 20 as recorded in Volume 13357, Page 357 et seq. of Cuyahoga County Records.**

INSERT a new DECLARATION ARTICLE XII, SECTION B, PARAGRAPH (1) entitled FAMILY UNIT OWNER. Said new addition to be added on Page 20 of the Declaration as recorded in Volume 13357, Page 357 et seq. of Cuyahoga County Records is as follows: (new language is underlined)

B. FAMILY UNIT OWNER. The responsibility of each Family Unit owner shall be as follows:

- (1) To maintain, repair and replace at his expense all portions of his Family Unit; and all internal installations of such Family Unit such as appliances, heating, plumbing, electrical and air conditioning fixtures or installations, and any portion of any other utility service facilities located within the Family Unit boundaries, and to do likewise with all Limited Common Areas and Facilities designated by the Association for his use, with the exception that the association shall be responsible for the maintenance and repair of the water line extending from the main water line to the shut off at the point where the line enters the unit.

Any conflict between this provision and other provisions of t he Declaration and By-Laws shall be interpreted in favor of this provision mandating that the Association be responsible for maintenance and repair of the water line extending from the main water line to the point the water line enters the unit.

IN WITNESS WHEREOF, the said Independence Place West Condominium Owners Association, Inc. has caused the execution of this instrument this 14TH day of JUNE, 1996.

THE INDEPENDENCE PLACE WEST CONDOMINIUM OWNERS ASSOCIATION, INC.

Signed in the presence of:

Carol D. Card

Witness: CAROL D. CARD

Barbara R. Barnes

Witness: BARBARA R. BARNES

By: Gary Bienias, President  
GARY BIENIAS, its President


By: Nancy Fryberger  
NANCY FRYBERGER, its Secretary

STATE OF OHIO )  
 ) SS  
COUNTY OF CUYAHOGA )

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BEFORE ME, a Notary Public in and for said County, personally appeared the above named Independence Place West Condominium Owners Association, Inc., by its President and its Secretary, who acknowledge that they did sign the foregoing instrument and that the same is the free act and deed of said corporation and the free act and deed of each of them personally and as such officers.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at CLEVELAND, Ohio, this 14TH day of JUNE, 1996.

  
*Barbara R. Barnes*  
NOTARY PUBLIC

BARBARA R. BARNES  
Notary Public - State of Ohio - Cuy. Cty.  
My Commission Expires July 13, 1998

This instrument prepared by:  
DAVID W. KAMAN, Esq.  
Kaman & Ott, Attorneys at Law  
50 Public Square  
600 Terminal Tower  
Cleveland, Ohio 44113  
(216) 696-0650

EXHIBIT A

AFFIDAVIT

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STATE OF OHIO )  
 ) SS  
COUNTY OF CUYAHOGA )

GARY BIENIAS, being first duly sworn, states as follows:

1. He is the duly elected and acting President of the Independence Place West Condominium Owners Association, Inc.
2. As such President, he caused copies of the amendment to the Declaration of the Independence Place West Condominium to be mailed by certified mail to all mortgagees on the record of the Association having bona fide liens of record against any Family Unit Ownership.
3. Further affiant sayeth naught.

*Gary Bienias, President*  
 \_\_\_\_\_  
 GARY BIENIAS, President

BEFORE ME, a Notary Public in and for said County, personally appeared the above named GARY BIENIAS who acknowledges that he did sign the foregoing instrument and that the same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at CLEVELAND, Ohio, this 14TH day of JUNE, 1996

*Barbara R. Barnes*  
 \_\_\_\_\_  
 NOTARY PUBLIC

BARBARA R. BARNES  
Notary Public - State of Ohio - Cuy. Cty.  
My Commission Expires July 13, 1998



EXHIBIT B

CERTIFICATION OF SECRETARY

The undersigned being the duly elected and qualified Secretary of the Independence Place West Condominium Owners Association, Inc., hereby certifies that there is on file in the records of the Association, the names of the following mortgagees, if any, who have consented to the proposed Amendment to the Declaration of the Independence Place West Condominium Owners Association, Inc.

N O N E

*Nancy Fryberger*  
\_\_\_\_\_  
NANCY FRYBERGER, Secretary

STATE OF OHIO            )  
                                  )   SS  
COUNTY OF CUYAHOGA    )

BEFORE ME, a Notary Public in and for said County, personally appeared the above named NANCY FRYBERGER who acknowledged that she did sign the foregoing instrument and that the same is her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at CLEVELAND, Ohio, this 14<sup>TH</sup> day of JUNE, 1996.

*Barbara R. Barnes*  
\_\_\_\_\_  
NOTARY PUBLIC

BARBARA R. BARNES  
Notary Public - State of Ohio - Cuy. Cty.  
My Commission Expires July 13, 1998



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*J. W. ...*

INDEPENDENCE PLACE WEST CONDOMINIUM  
53098 NORTH ROYALTON, OHIO

FIFTH AMENDMENT TO DECLARATION OF CONDOMINIUM OWNERSHIP

This will certify that a copy of this Fifth Amendment has been filed in the Office of the County Auditor, Cuyahoga County, Ohio.

Date: *December 23*, 1976

County Auditor,

BY: *Patricia Whitmore*

THIS INSTRUMENT PREPARED BY:

CARLISLE, REIMER, BIRGE & MORRISON  
Attorneys at Law  
1001 Euclid Avenue  
Suite 600  
Cleveland, Ohio 44115  
861-5282

RECORDER NOTE:

FOR MAPS ACCOMPANYING THIS DECLARATION AND  
BY-LAWS SEE VOL. *27* PAGES *41* TO *43*  
INCLUSIVE OF CONDOMINIUM MAP RECORDS.

FIFTH AMENDMENT TO DECLARATION OF CONDOMINIUM OWNERSHIP

FOR

INDEPENDENCE PLACE WEST CONDOMINIUM

WHEREAS, on September 18, 1973, CARL MILSTEIN, TRUSTEE, hereinafter referred to as "Declarant", submitted certain premises in the City of North Royalton, County of Cuyahoga and State of Ohio to the Provisions of Chapter 5311 of the Ohio Revised Code for condominium ownership by filing with the Cuyahoga County Recorder and Auditor a document entitled, "Declaration of Condominium Ownership for Independence Place West Condominium" (hereinafter called "Declaration"); and,

WHEREAS, Declarant, on September 18, 1973, also filed with the County Recorder of Cuyahoga County, as Exhibit A to the Declaration an instrument entitled, "By-Laws of Independence Place West Condominium Owner's Association" (hereinafter referred to as "By-Laws"); and,

WHEREAS, Declarant, on September 18, 1973, filed with the Cuyahoga County Recorder as Exhibits B1 to B21, drawings of the building located on the premises which were certified by Robert L. Bohning, Registered Surveyor, and Monroe Schwartz, Registered Architect, (hereinafter called "Drawings"); and,

WHEREAS, the Declaration and By-Laws were filed for record with the County Recorder of Cuyahoga County in Volume 13357, Page 357, et seq., of the County Records, and the Drawings were filed in Condominium Plats Volume 13, Pages 42 through 62 of the County Records of Cuyahoga County; and,

WHEREAS, on December 14, 1973, the First Amendment to the Declaration of Condominium Ownership was filed with the

County Recorder of Cuyahoga County in Volume 13383, Pages 391 through 401 inclusive, and the Drawings were filed in Condominium Plats Volume 19, Pages 45-61 inclusive of the County Records of Cuyahoga County; and,

WHEREAS, on April 10, 1974, the Second Amendment to the Declaration of Condominium Ownership was filed with the County Recorder of Cuyahoga County in Volume 13615, Pages 897 through 917, inclusive, and the Drawings were filed in Condominium Plats Volume 21, Pages 45-67 inclusive, of the County Records of Cuyahoga County; and,

WHEREAS, on December 5, 1975, the Third Amendment to the Declaration of Condominium Ownership was filed with the County Recorder of Cuyahoga County in Volume 13898, Pages 443 through 452, inclusive, of the County Records of Cuyahoga County; and,

WHEREAS, on December 5, 1975, the Fourth Amendment to the Declaration of Condominium Ownership was filed with the County Recorder of Cuyahoga County in Volume 13293, Pages 453 through 474, inclusive; and,

WHEREAS, an error was made in the Second Amendment to the Declaration whereby a revised legal description for Parcel III was inadvertently identified as Exhibit C-4, and Declarant desires to correct said error; and,

WHEREAS, Declarant, is, pursuant to the provisions of Article XI of the Declaration, the duly appointed and acting attorney-in-fact of each of the Existing Unit Owners and Existing

Mortgagees for the purpose of executing, acknowledging and recording for and in the name of each Existing Unit Owner such amendments to the Declaration as are contemplated by Article X thereof, and for and in the name of each Existing Mortgagee a consent to such amendment or amendments; and,

WHEREAS, Article X of the Declaration reserves to Declarant the right to amend the declaration and the Drawings for the purpose of submitting certain additional premises to the provision of the Declaration and to the provisions of Chapter 5311 of the Ohio Revised Code for condominium ownership and to include additional descriptions of Parcel Buildings; and,

WHEREAS, Declarant has determined to submit Parcel IIA (also called 2A) as defined in the Declaration and Exhibit C-4 attached thereto and made a part thereof together with the improvements thereon constructed and hereinafter described, to the provisions of the declaration and to the provisions of Chapter 5311 of the Ohio Revised Code for condominium ownership.

NOW, THEREFORE, Declarant hereby declares as follows:

1. All of the terms used herein which are defined in the Declaration shall be interpreted to have the same meaning as defined in the Declaration.

2. The Exhibits to the Declaration of Condominium Ownership as originally filed are hereby amended as follows:

A. Exhibit C-4 (relating to Parcel IIA), as purportedly amended in the Second Amendment is to remain as originally set forth in the Declaration.

B. Exhibit C-5, relating to Parcel III, is amended to read as follows:

SITUATED in the City of North Royalton, County of Cuyahoga, and State of Ohio, and known as being part of Original Royalton Township Section 2, and bounded and described as follows:

Beginning in the centerline of Abbey Road (60.00 feet wide) at the northwest corner of land conveyed to William and Vi Hitri by deed dated July 8, 1953, and recorded in Volume 7836, Page 178 of Cuyahoga County records;

Thence South 89° 43' 41" East, along the Northerly line of land so conveyed to William and Vi Hitri, 1306.33 feet to the Northeast corner thereof;

Thence South 02° 14' 25" East, along the Easterly line of land so conveyed to William and Vi Hitri, 100.00 feet to the Southeast corner thereof, said point being also on the Northerly line of land conveyed to John and Marie Small by deed dated April 18, 1861, and recorded in Volume 116, Page 8 of Cuyahoga County Records;

Thence South 89° 43' 41" East, along the said Northerly line of land so conveyed to John and Marie Small, 826.98 feet to a point;

Thence South 0° 11' 15" East, 398.30 feet to a point on the Southerly line of land conveyed to Mary Hlavin by deed dated February 11, 1956, and recorded in Volume 8602, Page 330 of Cuyahoga County Records;

Thence North 89° 39' 28" West, along the said Southerly line of land so conveyed to Mary Hlavin and along the Southerly line of land conveyed to D and L Development Company by deed dated March 26, 1970, and recorded in Volume 12600, Page 741 of Cuyahoga County Records, 1819.16 feet to the southeast corner of land conveyed to Gregory M. and Jill M. DeCapio by deed dated April 7, 1970, and recorded in Volume 12600, Page 739 of Cuyahoga County Records;

Thence North 02° 14' 25" West, along the Easterly line of land so conveyed to Gregory M. & Jill M. DeCapio, 85.00 feet to the northeast corner thereof, said point being also on the Southerly line of land conveyed to Leonard J. and D.M. Hlavin by deed dated July 13, 1956, and recorded in Volume 8653, Page 42 of Cuyahoga County Records;

Thence South 89° 39' 28" East, along the said Southerly line of land so conveyed to Leonard J. and D.M. Hlavin, 100.00 feet to a Westerly line of land so conveyed to D and L Development Company;

Thence North 02° 14' 25" West, along the said Westerly line of land so conveyed to D and L Development Company, 311.56 feet to a point on the said Northerly line of land so conveyed

to John and Marie Small;

Thence North 89° 43' 41" West, along the said Northerly line of land so conveyed to John and Marie Small, 400.00 feet to a point in the said centerline of Abbey Road;

Thence North 02° 14' 25" West, along the said centerline of Abbey Road, 100.00 feet to the place of beginning, be the same more or less, but subject to all legal highways and containing 18.9323 acres of land.

3. Declarant is the owner of Parcel IIA which together with Parcel IIA Buildings and all improvements thereon, all easements, rights, appurtenances belonging thereto, and all articles of personal property existing thereon for the common use of the Unit Owners, is hereby submitted to the provisions of Chapter 5311 and the provisions of the Declaration, as amended hereby, and is hereby included in and made a part of the condominium property. Subject to an easement reserved by Declarant, his successors and assigns, for the purposes of ingress and egress, sewer water and other utility lines in and over the following portion of Parcel IIA, for the benefit of other land owned by Declarant, which property so reserved is described as follows:

SITUATED in the City of North Royalton, County of Cuyahoga and State of Ohio and known as being part of Original Royalton Section No. 2 and further being bounded and described as follows:

Beginning at the Westerly intersection of the sideline of the cul-de-sac of Independence Drive, 50 feet wide, with a Southerly line of Independence Place - West Condominiums Phase II as recorded in Volume 21, Pages 45-66, Cuyahoga County Map Records, said point being the principal place of beginning of the premises herein intended to be described;

COURSE I:

Thence along said Southerly line, North 89° 43' 41" West, 116.45 feet to a point in a Westerly line of said Independence Place - West Condominiums Phase II;

COURSE II:

Thence along said Westerly line, North 00° 11' 15" West, 10.00 feet to a point;

COURSE III:

Thence North 89° 43' 41" West, 98.73 feet to a point of curvature;



COURSE IV:

Thence along the arc of a curve deflecting to the left, 185.36 feet, said curve having a radius of 314.86 feet, and a chord which bears South 73° 24' 24" West, 182.70 feet to a point;

COURSE V:

Thence South 45° 20' 10" West, 211.62 feet to the Southwesterly corner of said Independence Place - West Condominiums Phase IIA;

COURSE VI:

Thence along the Westerly line, North 00° 11' 15" West, 209.50 feet to a point;

COURSE VII:

Thence South 71° 13' 45" East, 110.54 feet to a point;

COURSE VIII:

Thence South 89° 43' 41" East, 30.00 feet to a point;

COURSE IX:

Thence along the arc of a curve deflecting to the right, 203.02 feet, said curve having a radius of 344.86 feet and a chord which bears North 73° 24' 24" East, 200.10 feet to a point;

COURSE X:

Thence South 89° 43' 41" East, 236.88 feet to a point in said sideline of the cul-de-sac of Independence Drive;

COURSE XI:

Thence along said sideline, along the arc of a curve deflecting to the left, 47.02 feet, said curve having a radius of 52.50 feet and a chord which bears South 28° 39' 41" West, 45.47 feet to the principal place of beginning, and containing 0.698 acres of land, be the same more or less, but subject to all legal highways.

Declarant further reserves for himself, his successors, grantees, lessees, and assigns, for the benefit of adjacent parcels described in the Declaration, the right to use the recreational facilities and other improvements situated upon Parcel IIA, in common with the Unit Owners.

4. The Drawings, attached as Exhibits B1 - B21, to the Declaration and referred to in Article I(B)(4) thereof, are hereby amended by adding thereto and making a part thereof, the Drawings (hereinafter called "Fifth Amendment Drawings") prepared

and certified by Frank J. Federico, Registered Surveyor and Monroe Schwartz, Registered Architect, in accordance with Section 5311.07 of the Ohio Revised Code, relating to Parcel IIA; Parcel IIA Buildings and all other improvements thereon, which Fifth Amendment Drawings are identified as Exhibit B-1, B-3 and B-4 and attached to this Fifth Amendment.

5. Except as specifically hereinabove amended, all of the provisions of the Declaration and By-Laws, and the Drawings shall be and hereby are declared to remain in full force and effect.

6. Consent to this Fifth Amendment to Declaration of Condominium Ownership on behalf of Existing Unit Owners and on behalf of Existing Mortgagees, is hereby granted by Declarant in his capacity as attorney-in-fact pursuant to the provisions of Article XI of the Declaration.

IN WITNESS WHEREOF, CARL MILSTEIN, TRUSTEE, acting in his capacity as Declarant of Parcel IIA; as owner of Parcel I Units, Parcel Ia Units and Parcel II Units, and as attorney-in-fact for the Existing Unit Owners and for the Existing Mortgagees, has caused this instrument to be executed this 5<sup>th</sup> day of Oct., 1976.

Signed and acknowledged in the presence of:

*[Handwritten signatures of witnesses]*

*[Handwritten signature of Carl Milstein]*  
CARL MILSTEIN, TRUSTEE, as Declarant of Parcel IIA, as Owner of Units of Parcel I Units, Parcel Ia Units, Parcel II Units, and as attorney-in-fact for Existing Mortgagees and Existing Unit Owners