

CUYAHOGA COUNTY RECORDER
LILLIAN J GREENE - 12
MORT 10/27/2009 10:26:39 AM
200910271075

AMENDMENTS TO THE
DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS
FOR
HILLBROOK

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF
EASEMENTS, COVENANTS AND RESTRICTIONS FOR HILLBROOK
RECORDED AT VOLUME 96-06582, PAGE 4 ET SEQ., OF THE CUYAHOGA
COUNTY RECORDS.

AMENDMENTS TO THE
DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS
FOR HILLBROOK

WHEREAS, the Declaration of Easements, Covenants and Restrictions for Hillbrook (the "Declaration") and the Bylaws of Hillbrook Association (the "Bylaws"), Exhibit F to the Declaration, were recorded at Cuyahoga County Records Volume 96-06582, Page 4. et seq., and

WHEREAS, the Hillbrook Association (the "Association") is a corporation consisting of all Owners in Hillbrook and as such is the representative of all Owners, and

WHEREAS, Article 8, Section (d) of said Declaration authorizes amendments to the Declaration and Bylaws Article XIV authorizes amendments to the Bylaws, and

WHEREAS, a meeting of the Association's Owners was held on or about October 20, 2009, and, at such meeting and any adjournment thereof, Owners representing at least 66 2/3% of the voting power of the Association executed, in person or by proxy, an instrument in writing setting forth specifically the matters to be modified (the "Amendments"), and

WHEREAS, the Association has in its records the signed, written consents to Amendments A and D signed by Owners representing 77.7% of the Association's voting power, together with the minutes from said meeting and any adjournment thereof, and

WHEREAS, the Association has in its records the power of attorney signed by Owners representing 77.7% of the Association's voting power authorizing the Association's officers to execute Amendments A and D on their behalf, and

WHEREAS, the Association has in its records the signed, written consents to Amendments B and E signed by Owners representing 75.0% of the Association's voting power, together with the minutes from said meeting and any adjournment thereof, and

WHEREAS, the Association has in its records the power of attorney signed by Owners representing 75.0% of the Association's voting power authorizing the Association's officers to execute Amendments B and E on their behalf, and

WHEREAS, the Association has in its records the signed, written consents to Amendment C signed by Owners representing 72.2% of the Association's voting power, together with the minutes from said meeting and any adjournment thereof, and

WHEREAS, the Association has in its records the power of attorney signed by Owners representing 72.2% of the Association's voting power authorizing the Association's officers to execute Amendment C on their behalf, and

WHEREAS, pursuant to Declaration Article 8, Section (d), there are no holders of bona fide mortgages to Institutional Mortgagees on record with the Association, therefore the Association has no names of mortgagees who have consented to the proposed Amendment to the Declaration on the Association's records, and

WHEREAS, the proceedings necessary to amend the Declaration as required by the Declaration have in all respects been complied with.

NOW THEREFORE, the Declaration of Easements, Covenants and Restrictions for Hillbrook is hereby amended by the following:

AMENDMENT A

DELETE BYLAWS ARTICLE III, SECTION 1 entitled, "Annual Meeting," in its entirety. Said deletion to be taken from Page 3 of the Bylaws, Exhibit F of the Declaration, as recorded at Cuyahoga County Records, Volume 96-06582, Page 4 et seq.

INSERT a new BYLAWS ARTICLE III, SECTION 1 entitled, "Annual Meeting." Said new addition, to be added on Page 3 of the Bylaws, Exhibit F of the Declaration, as recorded at Cuyahoga County Records, Volume 96-06582, Page 4 et seq., is as follows:

Section 1. Annual Meeting.

The annual meeting of the Association for the election of Board members, the consideration of reports to be laid before such meeting, and the transaction of such other business as may properly be brought before such meeting shall be held at such time and at such place as may be

designated by the Board and specified in the notice of such meeting. The annual election meeting shall be held in the fourth quarter of each calendar year.

MODIFY BYLAWS ARTICLE XVI entitled, "Miscellaneous." Said modification, to be made on Page 15 of the Bylaws, Exhibit F of the Declaration, as recorded at Cuyahoga County Records, Volume 96-06582, Page 4 et seq., is as follows (deleted language is crossed out; new language is underlined):

ARTICLE XVI
Miscellaneous

The fiscal year of the Association shall begin on the first day of October ~~January~~ and end on the 30th day of September ~~31st day of December~~ of every year, ~~except that the first fiscal year shall begin on the date of incorporation.~~

Any conflict between these provisions and any other provisions of the Declaration and Bylaws shall be interpreted in favor of this amendment changing the dates of the annual meeting and fiscal year. 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 in the court of common pleas within one year of the recording of the amendment.

AMENDMENT B

DELETE BYLAWS ARTICLE V, SECTION 2 entitled, "Election." in its entirety. Said deletion to be taken from Page 6 of the Bylaws, Exhibit F of the Declaration, as recorded at Cuyahoga County Records, Volume 96-06582, Page 4 et seq.

INSERT a new BYLAWS ARTICLE V, SECTION 2 entitled, "Election." Said new addition, to be added on Page 6 of the Bylaws, Exhibit F of the Declaration, as recorded at Cuyahoga County Records, Volume 96-06582, Page 4 et seq., is as follows:

Section 2 - Election.

Such election shall be by written secret ballot whenever requested by any member; but unless such request is made, the election may be conducted in any manner approved at such meeting. Each Owner may vote for as many candidates as there are vacancies in the Board. Candidates receiving the greatest number of votes shall be elected Directors. The office of a Director who ceases to be qualified to serve as such shall automatically become vacant immediately. The remaining Directors, though less than a majority of the authorized number of Directors, shall, by a vote of a majority of their number, fill any vacancy for the unexpired term.

Any conflict between this provision and any other provisions of the Declaration and Bylaws shall be interpreted in favor of this amendment regarding the election of Board members. 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 in the court of common pleas within one year of the recording of the amendment.

AMENDMENT C

MODIFY DECLARATION ARTICLE 2, SECTION (f)(ix) entitled, "Animals and Pets." Said modification, to be made on Pages 14-15 of the Declaration, as recorded at Cuyahoga County Records, Volume 96-06582, Page 4 et seq., is as follows (deleted language is crossed-out; new language is underlined):

- (ix) Animals and Pets. No animals, birds, rabbits, livestock, fowl, reptiles or poultry of any kind shall be raised, bred, or kept on any Lot or on the Common Area, EXCEPT that two (2) household pets one dog and one cat (excluding, however, any dog of vicious breed as further described below), domestic, caged (including bird cages and fish tanks) may be kept in a Unit, subject to Rules adopted by the Association Board of Directors, and provided:

- (A) they [~~the cat and dog~~] are not kept, bred, or maintained for any commercial purpose;
- (B) ~~the cat and dog~~ any such pet is not permitted in any area of the Property other than the Units unless they are must be kept on a hand-held leash held by a person whenever it goes upon the Common Areas and Facilities, being carried, or otherwise transported and they are permitted only on those portions of the Property as shall have been designated for them by the Board.
- (C) the Owner immediately pick up, remove, and place in a sealed rubbish container the animal's defecation;
- (D) any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Condominium Property subject to these restrictions upon three (3) days' written notice from the Board of Directors of the Association. If Declarant permits some Occupants to have two dogs or both a dog and cat upon initial move in, these Occupants may continue to keep their pets; HOWEVER, after they lose their pets through death or other cause they shall thereafter comply with this subparagraph (ix);
- (E) frequent barking by a dog or meowing by a cat, if complained of by any Occupant, may be deemed an unreasonable disturbance sufficient to require permanent removal;
- (F) rules adopted by the Association [or Board] governing pets ~~eats and dogs~~ may include the requirement of a security deposit from the pet owner which will be forfeited if the Owner fails to comply with this subparagraph (ix m) or Rules governing pets; and
- (G) the Board may assess fines or special assessments against any Unit and Unit Owner(s) thereof who violates this subparagraph or any Rule further regulating pets.

The term "household pet" does not include "exotic" animals as defined by the Board from time to time, including, but not limited to any snakes, other reptiles, exotic breeds, or wild hybrids. No Doberman, Rottweiler, Presa Canario, any dog commonly known as a pit bull, and any mixed breeds of the foregoing (collectively "Prohibited Dogs") may be kept, harbored, or permitted to remain on any part of the Property for any length of time. Any "exotic" animal or Prohibited Dog kept on the Property prior to the recording of this amendment shall be "grandfathered" and permitted to remain on the Property until its demise or relocation off the Property, at which time it may not be replaced. If an animal is considered "exotic" or a Prohibited Dog, as determined by the Board, the Owner must obtain and maintain liability insurance of at least \$500,000.00 per occurrence and provide proof of such insurance to the Association within thirty (30) days of any written request from the Board.

A "vicious dog" means a dog that: (1) caused injury, including death, to any person or (2) has killed another pet. Upon the Board's determination that a given dog is a vicious dog, such dog is prohibited from being kept, harbored, or permitted to remain on any part of the Property for any length of time.

Any conflict between these provisions and any other provisions of the Declaration and Bylaws shall be interpreted in favor of this restriction on pets. 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 in the court of common pleas within one year of the recording of the amendment.

AMENDMENT D

INSERT a new DECLARATION ARTICLE 2, SECTION (f)(xxi) entitled, "Occupancy Restriction." Said new addition, to be added on Page 17 of the Declaration, as recorded at Cuyahoga County Records, Volume 96-06582, Page 4 et seq., is as follows:

- (xxi) Occupancy Restriction. A person who is classified a Tier III or Tier II sexual offender/child-victim offender, or any future equivalent classification, and for whom the County Sheriff or other government entity must provide community notification of the sex offender's residence is prohibited from residing in or occupying a Unit or remaining in or on the Property for any length of time. The classification of a sexual offender/child-victim offender and determination of whether notice is required is made by a court of law pursuant to the Ohio Sex Offenders Act, as may be amended and/or renamed from time to time, or similar statute from another jurisdiction. The Association shall not, however, be liable to any Owner or Occupant, or anyone visiting any Owner or the Association, as a result of the Association's alleged failure, whether negligent, intentional, or otherwise, to enforce the provisions of this restriction.

Any conflict between this provision and any other provisions of the Declaration and Bylaws shall be interpreted in favor of this restriction on the occupancy of Units. 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 in the court of common pleas within one year of the recording of the amendment.

AMENDMENT E

INSERT a new BYLAWS ARTICLE IV, SECTION 5 entitled, "Indemnification of Board Members and Officers." Said new addition, to be added on Page 5 of the Bylaws, Exhibit F of the Declaration, as recorded at Cuyahoga County Records, Volume 96-06582, Page 4 et seq., is as follows:

Section 5. Indemnification of Board Members and Officers.

The Association shall indemnify any member of the Board of Directors or officer of the Association or any former Board member or officer of the Association and/or its or their respective heirs, executors and administrators, against reasonable expenses, including attorneys' fees, judgments, decrees, fines, penalties or amounts paid in settlement, actually and necessarily incurred by him/her in connection with the defense of any pending or threatened action, suit, or proceeding, criminal or civil, to which he/she is or may be made a party by reason of being or having been such Board member or officer of the Association, provided it is determined in the manner hereinafter set forth that (1) such Board member or officer of the Association was not and is not adjudicated to have been grossly negligent or guilty of misconduct in the performance of his/her duty to the Association; (2) such Board member or officer acted in good faith in what he/she reasonably believed to be in, or not opposed to, the best interest of the Association; (3) in any criminal action, suit or proceeding, such Board member or officer had no reasonable cause to believe that his/her conduct was unlawful; and (4) in case of settlement, the amount paid in the settlement was reasonable.

The above determination required shall be made by written opinion of independent legal counsel chosen by the Board. Notwithstanding the opinion of legal counsel, to the extent that a Board member or officer has been successful in defense of any action, suit or proceeding, or in the defense of any claim, issue or matter, he/she shall, in that event, be indemnified.

(a) Advance of Expenses. The Association may advance funds to cover expenses, including attorneys' fees, with respect to any pending or threatened action, suit, or proceeding prior to the final disposition upon receipt of a request to repay such amounts.

(b) Indemnification Not Exclusive; Insurance. The indemnification provided for in this Article shall not be exclusive, but shall be in addition to any other rights to which any Person may be entitled under the Articles of Incorporation, the Declaration, these Bylaws or Rules of the Association, any agreement, any insurance provided by the Association, the provisions of Section 1702.12(E) of the Ohio Revised Code and its successor statutes, or otherwise. The Association shall purchase and maintain insurance on behalf of any Person who is or was a Board member or officer of the Association against any liability asserted against him/her or incurred by him/her in such capacity or arising out of his/her status as a Board member or officer of the Association.

(c) Board Member and Officers Liability. The Board members and officers of the Association shall not be personally liable to the Owners for any mistake of judgment, negligence, or otherwise, except for their own willful misconduct or bad faith. The Association's indemnification shall include, but not limited to, all contractual liabilities to third parties arising out of contracts made on behalf of the Association and every contract or agreement made by any Board member or officer of the Association shall mean that such Board member or officer of the Association is acting only as a representative of the Association and shall have no personal liability, except with respect to any such contracts made in bad faith or contrary to the provisions of the Declaration or these Bylaws and/or as a Owner.

(d) Cost of Indemnification. Any sum paid or advanced by the Association under this Article shall constitute a Common Expense. The Board shall have the power and the responsibility to raise, by special Assessment or otherwise, any sums required to discharge the Association's obligations under this Article; provided, however, that the liability of any Owner arising out of the contract made by any Board member or officer of the Association, or out of the aforesaid indemnity in favor of such Board member or officer of the Association, shall be limited to such proportion of the total liability as said Owner's pro rata share bears to the total percentage interest of all the Owners as members of the Association.

Any conflict between this provision and any other provisions of the Declaration and Bylaws shall be interpreted in favor of this amendment for the indemnification of Board members and officers of the Association. 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 in the court of common pleas within one year of the recording of the amendment.

IN WITNESS WHEREOF, the said Hillbrook Association has caused the execution of this instrument this 23rd day of October, 2009.

HILLBROOK ASSOCIATION

By: John D'Amico
JOHN D'AMICO, its President

By: Sylvia Arceci
SYLVIA ARCECI, its Secretary

STATE OF OHIO)
COUNTY OF Cuyahoga) SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named Hillbrook Association, by its President and its Secretary, who acknowledged that they did sign the foregoing instrument, on Page 11 of 12, 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 in Brecksville, Ohio, this 23rd day of October, 2009.

Laura M. Murowsky
NOTARY PUBLIC

Place notary stamp/seal here:

LAURA M. MUROWSKY
Notary Public, State of Ohio
My Commission Expires April 8, 2013

This instrument prepared by:
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50 Public Square
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