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Franklin County Recorder

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MAY 18 2011

CLARENCE E. MINGO II
AUDITOR
FRANKLIN COUNTY, OHIO

CONVEYANCE TAX
EXEMPT

CLARENCE E. MINGO II
FRANKLIN COUNTY AUDITOR

AMENDMENT TO THE DECLARATION OF COVENANTS AND RESTRICTIONS OF HARDESTY HEIGHTS HOMEOWNERS ASSOCIATION

This is an Amendment to the Declaration of Covenants and Restrictions of Hardesty Heights Homeowners Association, made on, or as of the 5th day of November, 2010.

RECITALS

A. Hardesty Heights Homeowners Association (hereinafter referred to as the "Association") is an Ohio Corporation, not-for-profit, under the provisions of Chapter 5311 of the Ohio Revised Code, pursuant to the recording of the Covenants and Restrictions of Hardesty Heights Homeowners Association, recorded in Vol. 3101, Pages 467 through 471, which are records of the Recorder of Franklin County, Ohio; the foresaid Amended Declaration (hereinafter referred to as the "Amended Declaration").

B. Pursuant to Chapter 5311 of the Revised Code of Ohio, the Declaration may be modified and amended with the consent of unit owners exercising not less than seventy-five percent (75%) of the voting power of all unit owners in the Association.

C. Unit owners, at a duly constituted meeting, at which a quorum was present, in person or by proxy, exercising not less than seventy-five percent (75%) of the voting power of all unit owners, duly consented to and adopted this Amendment to the Declaration.

D. These Amendments to the Declarations do not, in any way, enlarge, diminish, or change the size, location, composition, scope or extent of any unit or common area, nor the unit designation of any unit.

AMENDMENTS

NOW, THEREFORE, the undersigned duly empowered officers of Hardesty Heights Homeowners Association hereby certify that the following Amendments to the Declaration were approved and adopted, effective this 5th day of November, 2010.

1. **STATEMENT OF OBJECTIVES**. It is the express purpose of the amendments herein to preserve, enhance and improve the character of the Association as a quality residential community, and to encourage and mandate maximum occupancy of units by resident owners. Specific reasons for the adoption of these amendments are as follows:

(A) Lender and Insurer Acceptance. The Association is a moderately priced residential community which currently has a substantial number of rented units. It is a requirement of many lenders, guarantors and insurers of first mortgage loans (i.e., Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Mortgage Corporation and the Veterans Administration) and it is an important factor to many insurers, that the ratio of owner-occupants to tenant-occupants be maintained at a high level. It is therefore one purpose of these amendments to establish restrictions which will, over the years, establish an increased owner-occupant to tenant-occupant ratio, and thus to create a better environment for the obtaining of first mortgage loans and improved insurance coverage and rates. Obviously, the reaching of this objective would result in more saleable units and benefit the property in the Association and its owners.

(B) On-Site Absentee Ownership. Owner-occupants, as a general proposition, since they are living on the property they own, are more willing to participate in community activities of the Association, such as clean-up and/or beautification activities and projects, and to expand more funds to maintain and improve the property and thereby maintain the quality of life in the community, than are absentee owners whose primary objective, naturally, is to maximize income and the value of their investments. A higher ratio of owner-occupants to tenant-occupants in the Association would, accordingly, in all likelihood, result in an improved community and higher property values.

(C) Tenant Compliance. Compliance with the Association restrictions, rules and regulations by tenants is often difficult to enforce because of lack of privacy with them, problems identifying and locating tenants, and the impact of the fact that tenants normally do not have a substantial investment at risk, whereas owners do have capital at risk and, importantly, are subject to a wider variety of effective remedies as owners. Therefore, it is desirable for the Association to maximize the number of owner-occupants.

(D) Continuity and Stability. It is desirable for the Association and its owners that all reasonable measures are taken to impart a degree of continuity of residence and inhibit transience, and the amendments adopted hereby are designed to encourage those results.

(E) Unit Owner Rights. It is the further objective of these amendments that no present unit owner, whether an investor or owner-occupant, have his, her or its present contractual and property rights and obligations unreasonably impaired or jeopardized, and that the accomplishment of the Association's objectives hereby do not in any way change the fundamental purposes to which any Unit or Common Areas are restricted, which are to limit use of Units to residential purposes, and to limit uses of Common Areas to uses ancillary to residential use, nor do these amendments restrict or limit the right of a current Unit owner to rent or lease his or her Unit(s), other than to the extent already limited or restricted by the provisions of the Declaration.

II. RESTRICTION ON TRANSFERS

(A) Restrictions.

1. Except as hereinafter provided, at no time shall a legal or equitable ownership interest in more than one Unit in the Association be vested in or held, either directly or indirectly, by the same natural person or persons, or members of the same immediate family, that is, spouses and the minor children of the owner(s) of an ownership interest, their agents, assigns or nominees;

2. Except as hereinafter provided, at no time shall a legal or equitable ownership interest in any Unit or Units in (he Association be sold or conveyed, either directly or indirectly, to any person or entity who fails to represent by sworn, written Affidavit delivered to the Association prior to the conveyance, that he, she or they intend, in good faith, to occupy the Unit as a residence, and that they have no current intention or desire to rent or lease the Unit;

3. Except as hereinafter provided, at no time shall a Unit owner who acquires an ownership interest in a Unit after the date of recording of this amendment rent, lease or grant any interests or rights similar to leasehold rights with respect to the Unit until after the Unit owner(s) has or have owned and occupied his, her or their Unit as his, her or their principal residence for a continuous period of not less than two (2) years;

For purposes of the foregoing amendments, an "ownership interest" shall be construed broadly, and shall include (without limitation) any fee simple interest in a Unit (but said fee simple interest shall not include any transfer of a Unit via land installment contract), and any other type of real property ownership in a Unit, or any purchaser of a Unit or Units in a foreclosure sale; and

4. At no time shall any person rent, lease or otherwise grant any right of possession in or to any Unit except as set forth in Paragraph (3) above, and without first filing with the Board a complete lease addendum which identifies the tenants and occupants, contains the signatures of all owners and all tenants and occupants (except minor children), and which acknowledges that the tenants and occupants are subject to and bound by the Declaration, these Amendments, the Bylaws, and all Rules and Regulations of the Association. This lease addendum shall be in a form prescribed by the Board.

(B) Exceptions. The foregoing limitations shall not apply in the following instances:

1. To the present holder, of any ownership interest in one or more Units with respect only, to those Units in which that owner presently holds an ownership interest;

2. To any present lien holder or holder, guarantor or insurer of one or more mortgages on a Unit or Units and that or those holders', guarantors' or insurers' heirs and successors, with respect to those Units in which such holders, guarantors or insurers presently have a lien or an interest as a guarantor or insurer and acquire ownership of an interest or interest pursuant to the remedies provided in the mortgage, foreclosure, or by deed or assignment in lieu of foreclosure; that is, a present lien holder or holder, guarantor or insurer shall not be in violation of the foregoing restriction if that party acquires ownership interests in Units subject to such lien or mortgage, and, thereafter sells or attempt to lease, sell or convey the interest(s) to a tenant or an investor owner;

3. To any institutional holder, guarantor or insurer of a valid recorded first mortgage or mortgages on a Unit or Units, whether now or hereafter, and that holder's, guarantor's or insurer's successors, if that holder, guarantor insurer acquires an ownership interest In a Unit or Units pursuant to the remedies provided in the mortgage, or by foreclosure of the mortgage, or by deed or assignment in lieu of foreclosure; that is, no such institutional holder, guarantor or insurer shall be bound by the foregoing restriction if that party acquires ownership interests, as aforesaid, in Units subject to such first mortgage, whether that mortgage presently exists or is hereafter created;

(C) Effects of Violation. In the event any transfer of an ownership interest is in violation of the restriction set forth in Items (A) of Section II hereof, that transfer shall be null and void, the transferor or transferors shall continue to be deemed the owner or owners of the interest transferred and subject in all respects to the provisions of the Declaration and Bylaws, the rules and regulations of the Association, and all lawful actions taken by the Association and its Board, provided, further, that the transferee or transferees shall be jointly and severally liable with the transferor or transferors for fulfillment of all obligations of the owner or owners of the Unit or Units transferred. Without limiting the generality of the foregoing, the transferor or transferors shall continue to be personally liable for payment of the common expenses allocable to the Unit or Units transferred, accruing so long as the violation occurs, and to all other obligations applicable with respect to the owner or owners of the Unit or Units purported to be transferred. Further, the voting rights in the Association appurtenant to the Unit or Units purported to be transferred shall be suspended during the period of time while the violation continues.

In the event any rental or lease is in violation of the restriction set forth in Section II, Items (A)(3) or (A)(4) hereof, that lease or rental agreement shall be null and void; the unlawful renters, tenants and occupants shall be barred from using the recreation facilities (including, but not limited to, the swimming pool), the voting rights in the Association appurtenant to the Unit or Units rented or leased shall be suspended during the period of time while the violation continues, and the Association shall have the right to commence and pursue a forcible entry and detainee action to evict tenant(s) or renter(s). In addition, in the event of a violation, the Unit owner shall be responsible for all legal fees, and other costs and expenses, incurred by the Association relating to the violation, and/or the enforcement of the provisions contained herein.

(D) Evidence of Compliances. The Board of Trustees of the Association, from time to time, upon written request of a Unit owner or a proposed transferee, payment of a reasonable fee established from time to time by the Board of Trustees, and such documentary evidence relating to the proposed transfer and transferee as the Board of Trustees may from time to time prescribe, shall provide a certificate to the applicant certifying whether or not a proposed transfer will violate the foregoing restriction. A certification by the Board of Trustees that the proposed transfer will not violate the restrictions or is exempt there from because of an exception provided hereby, shall, for all purposes, be conclusive and final and bar the Association and any Unit owner or owners from asserting that the transfer violates these restrictions. In addition, failure of the Board of Trustees to issue a certificate to the applicant, within thirty (30) days of written request, shall for all purposes bare the association and any Unit owner or owners from asserting that the transfer proposed violates the restriction. Any notice required herein shall be sent by certified mail, return receipt requested, to the then President of the Association.

III. SURVIVAL

If any provision of this amendment shall be held to be invalid, void or unenforceable, the remaining provisions hereof shall not be affected or impaired, shall remain in full force and effect, and shall be construed so as to accomplish, to the extent legally permissible, the objectives described in Item 1 hereof.

IN WITNESS WHEREOF, the undersigned President and Secretary of Hardesty Heights Homeowners Association have executed this certificate and affirm its adoption, as aforesaid, on or as of this 5TH day of November, 2010.

Signed and acknowledged
in the presence of:

Jacob R. Hawk
Notary Public, State of Ohio
My Commission Expires 11-13-2011

Scott Taylor
Scott Taylor, President

Patricia Bond
Patricia Bond, Treasurer

STATE OF OHIO)
) ss:
COUNTY OF FRANKLIN)

The foregoing instrument was executed before me this 5TH day of November, 2010 by Scott Taylor, President, and by Patricia Bond, Treasurer, of Hardesty Heights Homeowners Association, as such officers and on its behalf, who certified the adoption of the foregoing amendments as stated therein.

Jacob R. Hawk
Notary Public, State of Ohio
My Commission Expires 11-13-2011

Notary Public