

10 pgs  
30

(M) James Clam

# Country Club Estates Condominium

original Restrictions

## Association

24 18 316

Richard P. Jones 10P  
CLARK COUNTY RECORDER  
Filed for Record as Presented  
I 201307630 Page 1 of 10  
C2 Date 04/17/2013 Time 11:18:49

# DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP

## HORIZONTAL PROPERTY REGIME

AMENDED AND REVISED DECLARATION OF  
HORIZONTAL PROPERTY OWNERSHIP  
APRIL 1, 2013

COUNTRY CLUB PATIO HOMES ASSOCIATION, INC.  
HORIZONTAL PROPERTY REGIME

This amended Declaration of Horizontal Property Ownership ("Declaration") is made this 1<sup>ST</sup> day of APRIL, 2013, by members of the Board of Directors of Country Club Patio Homes Association, Inc. (Declarant) Jeffersonville, Indiana.

**WITNESSETH:** the following facts are true,

(a) A plat for Country Club Estates was filed on record on December 8, 1993, in Plat Book 10, on Page 39, in the office of the Recorder of Clark County, Indiana.

(b) The plans setting forth the layout, location, identification numbers, and dimensions of the condominium units and property have been filed in the office of the Recorder of Clark County, Indiana, in Condominium Plat Book 1, as of July 5, 1994, page 52, Instrument number 10330 and show eight (8) buildings with four (4) units in each building.

(c) On April 21, 2000, Parkland Supply Corporation turned over control of Country Club Estates Homeowners Condominium Association to the owners. At that time, Parkland Supply Corporation released to the Association all monies, books, records, plans, and other information in its possession regarding the activities of said initial Board of Directors and the operation of the Regime prior to such turnover.

- Thereafter, the Association did elect a Board of Directors annually in accordance with and as prescribed by the By-Laws, who may take any other actions with respect to control of the Regime provided for by this Declaration and the By-Laws and Act.
- The Board of Directors is the governing body of the Association, representing all of the Co-Owners in providing for the management, maintenance, repair, replacement and upkeep of the Property.

**NOW THEREFORE**, Declarant makes this Declaration as follows:

### **1. DEFINITIONS**

(a) **Association A** has one class of members for voting on all matters and every owner of a lot or unit in Country Club Estates shall be a member of Association A and membership shall be a legal right or privilege attached to a property and inherited with it.

(b) As of January 1, 2008, **Associations B, D, E, F and G** were merged into Association A along with the ownership of all real property of each Association for the common use and enjoyment of the owners, and Associations B, D, E, F and G shall cease to exist along with their duties and responsibilities.

(c) **Association A** assumed all of the rights, duties and obligations of Association B,D,E,F, and G and any reference to the rights, obligations or duties of these associations in the Declaration are transferred to Association A.

(d) **Country Club Estates Condominium Association , refers to the name formerly know as Country Club Patio Homes, Inc** is an Indiana not-for-profit Corporation. The members of this Condominium Association will not be affected by the merging of Associations B,D,E,F,and G and each owner of a unit in Condominium Association shall continue to be a voting member of Association A.

(e) **"Common Area A"** shall mean all real property owned by Association A for the common use and enjoyment of the owners. The common area owned by Association A shall include the common area described as that area set forth in the recorded plat, as amended, except the area described on the recorded plat as both an easement and common area shall be considered an easement only and not a common area. Also, the buffer area around the perimeter of Country Club Estates shall be owned by Association A to be maintained as a buffer area and considered Common Area. Association A shall be responsible for the mowing and turf treatment of all 101 lots, including the common areas in the Patio Homes, Condominium Association.

(f) **"Common Area C"** means that area attached and inherited to the property of the Country Club Patio Homes. Common area property is defined as the foundations, columns, girders, beams, supports and exterior surfaces of roofs of the buildings; the yards, and parking areas unless they are classified as limited areas. Exterior lighting fixtures and pipes, ducts, electrical wiring and conduits and public utilities lines which serve more than one unit are included as common areas. All streets that are not dedicated are also included.

(g) **"Limited Areas"** means those areas within the condo unit or units to which use is limited to that unit or units.

Such limited areas include but are not limited to: entrance to the home, patios, driveways and sidewalks serving a particular unit, the exterior sides and surfaces of doors, windows and frames and everything from the brick walls and ceilings. All water lines, sewage lines, plumbing, gas and electric lines within the home and also below the floor or above the roof if they are an extension of those lines in the condominium unit are the responsibility of the owner to maintain and upkeep. All partitions and interior walls, which may be an extension of the neighbor's property, is also a limited area and each owner will maintain his/her part. The Board of Directors may revise or alter these Limited Areas as they see fit.

(h) **Utilities.** Each owner shall pay for his own utilities which are separately metered. Utilities which are not separately metered shall be paid from the common expense fund.

(i) **"Common Expenses"** means expenses of the Condominium Association; expenses for the upkeep, maintenance, repair and replacement of the Common Areas and all other costs and expenses incurred by the Association for the benefit of the Common Areas or for the common benefit of all Owners (Including, but not limited to : termite inspection, landscaping, social/flowers, postage/office expenses, insurance, federal and state taxes, miscellaneous repairs, legal representation, snow removal, irrigation and miscellaneous as described in by-laws 8 .a.)

(j.) **"Reserve fund for deferred maintenance and replacement"** is that amount (10% annually) set aside by the Board of Directors which shall include funds for items which occur less frequently than annually. This fund may also be used for capital expenditures for additional improvements or additional personal property which will be part of the common areas.

(k) **Ownership of Common Areas and Percentage Interest.** Each owner shall have an undivided interest in the common areas and limited area. The percentage interest of each condominium is equal to the number 1 divided by 32, the total number of units. The percentage interest is also the percentage vote allocated to the owner in all matters with respect to Country Club Estates and the Condominium Association.

- Each condominium unit is identified on the Plans by a Unit number and Building number which is shown on the plans and stated as "Unit \_\_\_\_\_, in Building \_\_\_\_\_ in Country Club Patio Homes Horizontal Property Regime. The Percentage interest is as above, 1 divided by 32, the total number of units.

(l) **"Mortgagee"** means the holder, insurer, or guarantor of any mortgage on any Dwelling Unit.

(m) **Plans** mean the floor and building plans of the buildings and condominiums prepared by William Saegesser and a site plan of the Tract and Buildings prepared by Corradino Group and certified by William Saegesser, P.E #18499, under date of April 25, 1994, all of which are incorporated herein by reference. Plans also include floor and building plans which may be submitted or subjected to the Act and this declaration by supplemental declarations.

A copy of these plans has been filed in the office of the Recorder of Clark County, Indiana, in Condominium **Plat Book 1**, as of **July 6, 1994**, page **52**, Instrument number **10330**.

(n) **"Act"** means the Indiana Code sections 32-25-1-1 et seq.; 22-12-1-1 et seq.; and 22-13-1-1 et seq., as later amended. Such code sections are incorporated herein by reference.

(o) **Encroachments and Easements for Common Area.** If, by reason of the location, construction, settling or shifting of a building, any Common Area or Limited Area now encroaches upon any condo unit, an easement shall be deemed to exist and run to the co-owners and the Association for the maintenance of such Common or Limited area.

- Each owner will have an easement in common with each other owner to use all pipes, wire, ducts, cables, conduits, utility lines and other common facilities, located in any of the other units and serving the owner's unit.
- Each owner shall have a right and easement in the Common Area "A" and shall pass that right if he/she sells her condo to the new owner.

(P) "**Plat**" means that certain plat of Country Club Estates, a planned Unit development, filed of record on December 8, 1993, in Plat Book #10, at page 39, in the office of the Recorder at Clark County, Indiana.

(q) "**Owner**" means a person, firm, corporation, partnership, association, trust or other legal entity or any combination which owns the fee simple title to a condo unit.

(r) "**Property**" means the tract and appurtenant easements, the condo units, the buildings, garages, improvements, and property of every kind and nature, real, personal or mixed located up the tract and used in connection with the operation, use and enjoyment of Country Club Estates Condominium Association but does not include any property which may not be submitted or subjected to the Act or part of the common area. All fixtures, equipment and appliances, interior walls and all floors are considered part of the condominium unit.

(s) "**Board of Directors**" (formerly called the Board of Managers) means the governing body of the Condominium Association, referred to in the By-Laws and elected by the owners in accordance with the By-Laws.

(t) "**By-Laws**" means the By-Laws of Condominium Association. The By-Laws provide for the administration and management of the condo property and restrictions on its use as required.

(u) **Real Estate Taxes and Assessments.** In the event that there are assessments or real property taxes assessed on the Property Regime as a whole, then each owner shall pay their proportionate share of such taxes and/or assessments.

## **2. DESCRIPTION OF CONDOMINIUM UNIT**

(a) Appurtenances. Each condominium unit shall consist of all space within the boundaries thereof, and all portions of the building situated within such boundaries, including, but not limited to, all fixtures, facilities, utilities, equipment, appliances and structural components designed and intended solely for the enjoyment and use of the unit wherein the same are located for the use, benefit, support, safety or enjoyment of the resident. All interior walls and all floors and ceilings within the unit are considered part of the unit.

- **Boundaries.** The boundaries of each condominium unit shall be as shown on the Plans without regard to the existing construction measured between the interior unfinished surface of the floors, roofs, and perimeter walls of each unit. In the event any horizontal or vertical or other boundary line does not coincide with the actual location of the respective wall, floor or roof of the condo unit because of inexactness of

construction, settling after construction, or for any other reasons, the boundary lines shall be treated for purposes of ownership, occupancy, enjoyment in accordance with the ACTUAL existing construction. Easements for exclusive use of owner shall exist in favor of the owner of the unit in such area lying outside the actual boundary lines of the unit, but within the wall, floor or roof surfaces of the unit.

### **3. MAINTENANCE, REPAIRS AND REPLACEMENTS.**

Each owner shall, at his expense, be responsible for the maintenance, repairs, decoration and replacement within his own condominium unit and as provided in the By-Laws within Limited Areas. Each owner shall repair any defect occurring in the condo unit which, if not repaired, might adversely affect any other condo unit, common or limited area.

- The Board of Directors shall adopt rules and regulations concerning maintenance, repairs, use and enjoyment of the Common Areas and Limited Areas as it deems appropriate. These Rules and Regulations may be amended and modified as it deems advisable or necessary.
- No owner may make **any alterations** or additions to the Common or Limited Areas without the prior approval of the Board. No change may be made which would affect the safety or structural integrity of the building in which the condo unit is in.
- The Board will make reasonable accommodations in the rules in order to afford a handicapped person equal opportunity to use and enjoy the condo unit.
- The Covenant and restrictions applicable to the use and enjoyment of the condo units and the Common and Limited areas are included in the By-Laws and Rules and Regulations of the Condominium Association, including the limitation that all condo units will be limited to **residential use only**. The Rules and Regulations and By-Laws are for the mutual benefit and protection of the present and future owners. These rules may be enforced by the Board of Directors or any owner who may be entitled to damages for any injuries resulting from any violations. However, there will not be a right of reversion or forfeiture of title resulting from such violation.

**4. MASTER CASUALTY INSURANCE:** The Association will purchase a master casualty insurance policy insuring the property in an amount consistent with the full replacement value of the buildings and common and limited areas. The policy will be reviewed annually. The cost of such insurance will be a common expense and paid by the dues.

- All proceeds payable as a result of a casualty loss covered by this insurance shall be paid to the Board of Directors who shall act as insurance trustees and hold such proceeds in a trust fund kept in the Common Expense account. The proceeds shall be used or dispersed as appropriate only in accordance with the provisions of this Declaration. A surety bond will be purchased by the Condominium Association to include protection for any insurance proceeds as received.
- In **NO** event will any distribution of proceeds be made by the Board directly to an owner when there is a mortgage endorsement on the certificate of insurance. In such cases, any proceeds will be to the owner and his mortgagee jointly.

- The interest of each damaged owner in the trust fund of these proceeds will be in ratio to the damage by the event insured in the master casualty policy.
- The Master casualty policy will contain provisions that the insurer waives its right to subrogation as to any claim against the Association, the Board of Directors, its agents and employees, owners, and guests. It also contains an endorsement that such policy shall not be terminated for non-payment of premiums without at least ten days prior written notice to mortgagees and provides further, if the Board is able to obtain such insurance upon reasonable terms that 1) the insurer will not be entitled to contribution by Casualty insurance which may be purchased by individual owners, and 2) not withstanding any provisions the insurer an election to restore damage in place of a cash settlement, such option shall not be available if the owners do not decide to restore.

**5. COMPREHENSIVE LIABILITY INSURANCE POLICY:** The Condominium Association will purchase a public liability policy in the amounts as deemed necessary by the Board. It will cover the Association, The Board of Directors, any committee and all persons acting as agents or employees with respect to Country Club Condominium Association. The owners shall also obtain any other insurance required by law or as the Board of Directors deem necessary.

**6. INDIVIDUAL OWNERS INSURANCE:** Each owner shall be responsible for loss or damage to the contents of his unit including all floor, ceiling and wall coverings, fixtures, betterments and improvements installed by the owner including his personal property. The Association shall have **NO** liability to the owner for loss or damage to the contents of any condo unit.

- Each owner shall be solely responsible for obtaining his own insurance to cover any loss and risk. This insurance coverage **must** be enough to repair and replace the condo unit and its contents to as near as possible the same condition as they existed prior to damage or loss.
- Each owner may elect to purchase additional coverage at his own expense including, but not limited to: casualty insurance upon his unit but it must provide that it be without contribution as against the casualty insurance purchased by the Association, personal liability insurance with same provisions for waiver of subrogation as referred to in the preceding insurance.
- If a casualty loss is sustained and there is a reduction in the proceeds which would otherwise be payable on the Master Casualty Plan purchased by the Association due to the additional insurance purchased by the Owner, the Owner agrees to assign the proceeds of his insurance to the Association to be distributed as provided.

## **7. CASUALTY AND RESTORATION**

- Damage to or destruction of any building due to fire or other casualty or disaster will be promptly repaired and reconstructed by the Association. The Board of Directors will

obtain reliable and detailed estimates of the cost to replace the damaged property in condition as good as that before the casualty.

- If the amount of the estimated cost of reconstruction is **less** than \$20,000, the disbursements from the construction fund shall be used to pay such costs upon approval of the Board of Directors. At the request of a mortgagee, which is a beneficiary of an insurance policy, the proceeds of which are included in the construction, the fund will be disbursed in the following paragraph.
- If the estimated cost of reconstruction is **more** than \$20,000, disbursement from the construction fund for payment of such costs shall be approved by the homeowner and the inspector chosen by either the insurance company and/or the Board of Directors. Approval of an inspector will require a liability insurance of \$1,000,000 or more. Such inspector shall be required to furnish an itemized work order setting out the services and materials to be furnished by contractors and subcontractors. Any draws or payment requested by the inspectors or contractors must be justified by the labor and materials furnished. The inspectors and contractors must guarantee that the costs will not exceed any insurance proceeds and/or the construction fund.
- Encroachments upon the condominium units which may be created as result of reconstruction may not constitute a claim by the owner upon whose property such encroachment exists, provided that the encroachment is in accordance with the plans to reconstruct.
- If the sums requested do not exceed the value of the services and there is no other outstanding debt, the remaining monies will be retained by the Board of Directors as reserve or may be used to maintain and operate the common areas. The Board can elect to distribute excess funds to the owners of the affected buildings.

**8. COMPLETE DESTRUCTION OF ALL BUILDINGS** means a special meeting of the Association was held within 30 days of the disaster and 2/3 of the owners determined that total destruction of all buildings had occurred. In this event, reconstruction will **not** be compulsory.

- At this meeting, owners must determine whether or not to rebuild. 2/3 of the owners must approve a motion in order for work to begin to rebuild, reconstruct and repair.
- If a meeting does not occur within the 30 days, it is assumed that there was **not** complete destruction and the Association will proceed with repair and reconstruction.
- If, in the case of complete destruction of all of the buildings, **less** than 2/3 of the entire owners vote in favor of rebuilding, reconstruction and repair, the buildings shall not be rebuilt, reconstructed or repaired. The property shall be deemed to be removed from



the provisions of the Act under Section 28 of the Act and will be in accordance with Section 21 of the Act (stated in (n) above)

**9. SECTION 21 STATES THAT:**

- The property is owned in common by the condominium owners.
- Each owner will share in the percentage of undivided interest after all mortgages and liens on units have been paid off.
- Any liens on any of the properties will be transferred to existing percentages
- The property will be sold, together with the proceeds of the insurance shall be considered one fund and divided equally among the owners.

**10. AMENDMENT OF DECLARATION:** Except as otherwise provided in the Declaration, amendments to the Declaration will be proposed and adopted in the following manner:

- **Notice:** Notice of the subject matter of the proposed amendment will be included in a notice of a meeting.
- **Resolution:** A resolution to adopt an amendment may be proposed by the Board of Directors or the owners (if they have a majority of the vote)
- **Meeting:** The amendment must be adopted by the designated vote at a meeting duly called. Such notice shall be in writing to each member at his address as it appears on the books of the Condominium Association and shall be mailed not less than fourteen (14) days nor more than thirty (30) days prior to the date of the meeting.
- **Adoption:** The amendment must be approved by a quorum. A quorum at members' meetings shall consist of persons entitled to cast a majority (more than 50%) of the votes of the entire membership. If a mortgagee has given prior notice of its interest to the Board of Directors, it may be invited to the meeting.
- **Special Amendments:** No amendment to this Declaration can be adopted which changes the percentage interest or the share of each owner's liability for the common expenses unless 100% approval is given by the owners and the mortgagees (if they have given prior interest to the Board of Directors)
- **Recording:** Each amendment or revision to the Declaration must be filed with the recorder's office of Clark County, Indiana.

**11. ACCEPTANCE AND RATIFICATION.** All owners and mortgagees and occupants of the condominiums shall be subject to and comply with the provisions of this Declaration, the By-Laws and the Rules and Regulations as adopted by the Board of Directors. All persons, corporations, partnerships, trusts, associations or other legal entities who may occupy, use, enjoy or control a condo unit shall be subject to the Declaration, By-Laws and Rules and Regulations.

