

Committee on Amendments to CT Condominium Declaration and Bylaws

Monday, May 31, 2022 6:00p.m. via Zoom

AGENDA:

1. **Call the meeting order:** Mickey Smotherman at 6:00 p.m.

2. **Attendance:**

Present: Mickey Smotherman, Joe Bateson, Charlotte Cleveland, Bill Cok, Steven Eagle, Marilyn Kennelly, Jon Schmidt, Pat Simmons (Secretary)

Next meeting: June 21, 2022, Tuesday at 6 p.m.

3. **Discussion: Committee continued discussions**

A. Joe & Mickey to report on insurance meeting with Blaine Martin (HUB), the Association's insurance agent. Summary report was received of the meeting "Summary of Rights & Responsibilities of Condo Owners and Association and CT Insurance Coverage"

- i. We learned the insurance agent is very knowledgeable and experienced and the Board will be discussing the exact wording in our insurance policy to make sure coverage is adequate. Mickey & Joe were informed by agent that the Association policy covers everything in the units except for owners' personal property.
- ii. It was clarified that the Definitions section of our Declaration with a description of our Unit boundaries does not apply to insurance coverage.
- iii. Mickey will pursue further information from insurance agent re: possibility of increasing our insurance coverage, and the Board will discuss at next meeting (June 7)

B. Finalize defining Common Elements and Limited Common Elements discussion – Joe & Steven will report

- i. They made two more changes to Definitions, moving "windows and doors" from General to Limited Common elements. Discussion was about quality differences when replacing windows or doors but the Board through policy can set standards, such as those in the Handbook.
- ii. They added a sentence "Limited common elements shall be considered general common elements when they are damaged as a result of a defect in a general common element." An expert opinion would be required to determine if the problem with the general common element did cause damage to a limited common element, in order to invoke this sentence.
- iii. Unanimously approved. See final wording at the end of this document.

C. Continue and finalize discussion of Levy & Collection of Assessments (Declaration, Article V), in light of Alanah's answers

- i. We removed "...are defined in Section..." from each paragraph due to a similar reference in the Definitions referring back to this section.
- ii. We changed "Other" to "Reimbursement" in subsection c) due to "Other" also used in the next subsection, meaning everything else not included in the above sections.

- iii. We changed “runs with ownership of the Unit” to “runs with the land” per Alanah’s recommendation.
- iv. Unanimously approved except for lien recording section
- v. Discussion about the wording “lien shall be recorded” in the Declaration section e) Liens and Foreclosure; and the Bylaws section “Liens – “Should the Association desire, the Manager or other Board agent may prepare a lien...”. Mickey said that Alanah stated the law does not require liens to be filed. Mickey said Saddle Peak management association charges \$50 fee to file and to removing a filing, and questioned whether recording EVERY lien was necessary. Mickey will discuss committee questions with Alanah and email us so we can decide on lien filings before the next meeting.

D. Resume discussion on Rights of the Association, Declaration Article V, in light of Alanah’s answers

- i. In section 9 we removed “Rules & Regulations”, which didn’t make sense.
- ii. In section 11 we removed an extra comma
- iii. In section 16 we discussed “Persons” use as this term was not in the Definitions. We changed it to “contract with an individual or other entity”. And the second use of “persons” was changed to “individual or entity”.
- iv. In section 17 we changed “Project” to “CT Condominium” two times. Another use of “Persons” and “Property” was changed to “persons within the property”
- v. Unanimously approved. See final wording at the end of this document.

E. Discuss whether to alter the provision that new owners by inheritance are NOT grandfathered per Steven’s suggested compromise in Article IV

- i. We discussed different types of Unit Owners, such as Family Trust, LLC, transfer to a family trust, due to an owner’s question to us when the primary owner dies. Joe talked about “disregarded entity” liability for tax purposes and maybe for residency.
- ii. Mickey suggested we keep the existing language and explain our intent to the owners when we meet with owners. It was decided that Mickey will discuss with Alanah to understand the implications of our current wording.

F. Start/complete discussion of Powers of the Board, Bylaws Article VIII

- i. We were out of time so we will continue discussion of Powers of the Board currently amended language per Alana’s recommendations, at the next meeting.
- ii. Board members were asked to send comments by email prior to the next meeting about this section, so we can finalize this section.
- iii. Mickey asked everyone to send their comments by June 7, if possible, so he will have an opportunity to organize everyone’s comments before he leaves on vacation June 10 (not returning until June 19) - in order to hopefully facilitate quick discussion and finalization at June 21 meeting, and then moving on to other topics anyone wants to discuss.

G. Charlotte’s newly typed Declarations and Bylaws – she was thanked for her wonderful job, which now has all our proposed amendments, and we can completely format when we have finished all our changes. This will be much easier to read by the Owners prior to the Owner meeting.

4. Next Meeting and Next Big Topic:

- a. Meeting: Monday, June 21, 6:00pm MDT
- b. Draft Agenda Topics:
 - i. Finalize Levy & Collection of Assessments
 - ii. Finalize Grandfathering clause in Leasing
 - iii. Discuss other topics in the Declaration or Bylaws that our committee members want to amend (submit these topics to our group before the meeting.)
 - iv. Charlotte requested corrections to the Declarations and Bylaws documents by committee members to her as soon as possible, no later than June 15.

5. Owner-to-Committee Communications:

Owners may contact the Amendments Committee with questions or concerns via email at contact.ct.amend@gmail.com

- 6. Adjournment:** Mickey adjourned the meeting at 8:15 p.m. Final Wording sections are below.

Common Elements and Limited Common Elements Final Wording

DEFINITIONS

New. Assessments

- a. Base Assessments are defined in the Declaration, Section V.
- b. Limited Common Element Assessments are defined in the Declaration, Section V.
- c. Reimbursement Assessments are defined in the Declaration, Section V.
- d. Reserve Assessments are defined in the Declaration, Section V.
- e. Other Assessments are defined in the Declaration, Section V.
- f. Special Assessments are defined in the Declaration, Section V.
- g. As noted in the Declaration, Section V, "Assessments may also be made for any purpose contemplated by this Declaration and for any purpose set out in the Montana Unit Ownership Act."

6. Common Elements shall mean both general common elements and limited common elements.

a. General Common Elements include all those elements which are for the use of all Unit Owners, invitees, and guests of Unit Owners of CT Condominium.

Specifically included are: grounds surrounding the building(s), the land on which the buildings are located, paths sidewalks and walkways, any portion of the parking areas not specifically allocated to a particular unit, any irrigation system placed on the property for landscape maintenance, storm water drainage facilities, any portions of the buildings designated on the floor plans as common to all Units, electrical, gas, communication, water, and sewer lines and connections serving multiple buildings, landscaping, plants and other materials and improvements separate from and outside of the buildings containing the units, and other elements necessary for the safety, maintenance and existence of CT Condominium in which each Unit Owner shall have its/his/her designated percentage of interest, as set forth in paragraph IV below.

a. General Common Elements includes the entire outside of a building from the inside face of the studs out, foundation, and roofs, pipes, conduits, and wires. A pipe, conduit,

or wire extending through a wall past the inner facing of the studs on the outer wall constitutes a Limited Common Element.

b. Limited Common Elements as used in this Declaration shall mean those common elements which are reserved for the use of a single unit owner or building, invitees, and guests of Unit Owners of CT Condominium, to the exclusion of other such owners, invitees, and guests. As to any given Unit Owner or Owners, limited common elements shall mean the common elements which are located within the "unit boundaries" defined in Section II.

Specifically included are: flues, chimneys, ducts, cables, conduits, public utility lines, water, sewer, electrical, gas, communication lines, hot and cold water pipes (all such utility pipes and lines are limited common elements where they service only one or two units; where they service all units, they shall be general common elements), exterior air conditioning units, all doors and windows, entrances, stoops, patios, fences and gates, driveways, or other portions of the building servicing only a particular unit or less than all of the units. The percentage of the separate unit's interest in the limited common elements shall be computed by determining the number of units that have use of the limited common elements and dividing that number into the total value of those limited common elements.

7. Common expenses shall mean expenses of administration, maintenance, repair or replacement of general common elements, expenses agreed upon as common by the Association of all Unit Owners, and expenses declared common by the Unit Ownership Act.

8. Governing Documents shall mean and include the Declaration and Bylaws (as amended), and Rules & Regulations adopted pursuant to the Bylaws.

{RENUMBER all subsequent paragraphs.}

8. Declaration shall mean this document and all parts attached thereto or incorporated by reference.

9. Limited Expenses shall mean the expenses attributable to the maintenance, repair and replacement of limited common elements, and are expenses only for owners of units within the respective building for which the expenses are accrued.

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II. REAL ESTATE Unit Boundaries

Each unit shall include the part of the building containing the Unit that lies within the boundaries of the Unit, which boundaries are as follows:

Each Unit shall consist of the interior space bounded by the inner face of the exterior studs, the sub flooring, and the sub ceiling, together with outdoor faucets, individual driveways, and paths to the individual doors, stoops, and patios. The crawl space beneath a unit is included.

Rights of the Association, Declaration Article V Final Wording

V. THE ASSOCIATION

Membership

An Owner of a Unit in CT Condominium shall automatically, upon assuming ownership, be a member of the CT Condominium, hereinafter referred to as the Association, and shall remain a member of said Association until such time as his membership in said Association shall automatically cease. The membership shall be limited to Unit Owners as defined in this Declaration.

Function

Rights of Association. The Association, by and through its duly elected Board of Directors, shall have and may exercise any right or privilege given to it expressly by the Governing Documents or reasonably implied from or reasonably necessary to effectuate any such right or privilege. All rights and powers of the Association, in the governance and management of the business and assets of the Association, may be exercised by or under the authority of the Board, without the necessity of a vote of the Unit owners, except as required by law or other provisions of the Declaration (as amended) or the Bylaws (as amended). The powers and rights of the Association include, but are not limited to:

1. Apply and enforce Bylaws provided for the governance of the Association
2. Make provisions for the general management, repairs and maintenance of the General Common Elements, Limited Common Elements, and any other provisions for the benefit of the Association. The Association in conformance with this Declaration, has the right to treat Limited Common Elements as General Common Elements for the purpose of funding repairs and maintenance and the right to repair and maintain Limited Common Elements;
3. Express authority to review, accept, condition, modify or deny all plans for all Construction Activity on the Association's Property;
4. Adopt Design Guidelines and/or reasonable Rules and Regulations for the administration and procedures for carrying out its duties including but not limited to the authority to require reasonable fees and deposits to be paid to the Association;
5. Make capital expenditures, incur liabilities, enter into contracts and agreements, and provide services and functions as are necessary to effect the business of the Association, including, but not limited to, hiring and discharging managing agents and other employees, agents, and independent contractors;
6. Perform any function as set forth in this Declaration, including, without limitation, by, through or under contractual agreements, licenses, or other arrangements with any governmental, quasi-governmental, private entity or any non-profit organization, as may be necessary or desirable;
7. Enter any Unit in accordance with this Declaration;

8. Adopt and amend budgets for revenues, expenditures and reserves and levy and collect Assessments from Members;
9. Pay the expenses of the Association, and provide for the use and disposition of any insurance proceeds in the event of loss or damage;
10. Purchase insurance to protect the real and personal property of the Association, including the Common Elements, against casualty or loss, and to protect the Association, officers, directors, and Staff (when acting in their official capacity) from liability (the extent and specific nature of coverage shall be determined by the Board in accordance with this Declaration);
11. Provide for the indemnification of the Association's officers and directors when (acting in their official capacity);
12. Borrow funds in order to pay for any expenditure or outlay authorized by the Governing Documents, and to execute all such instruments evidencing such indebtedness as may be necessary or advisable; and assign its right to future income, including, without limitation, the right to receive Assessments, as security for any borrowed funds; provided, however, that the Association shall not use in excess of seventy-five percent (75%) of the Association's total reserve funds or pledge assets with a value in excess of seventy-five percent (75%) of the total value of all Association assets as collateral for any borrowed funds without the affirmative vote of a majority of the Members;
13. Pay or cause to be paid all ad valorem real estate taxes, special improvement and other assessments (ordinary and extraordinary), ad valorem personal property taxes, and all other taxes, duties, charges, fees and payments required to be made to any governmental or quasi-governmental entity which shall be imposed, assessed or levied upon, or arise in connection with, the real or personal property owned by the Association;
14. Obtain and pay for legal, accounting and other professional and expert services;
15. Deal with agencies, officers, boards, commissions, departments, and other governmental bodies on a local, state and federal basis to carry out the powers, duties and responsibilities herein;
16. Institute, defend or intervene in litigation, arbitration, mediation, or an administrative proceeding in its own name on behalf of itself on matters affecting the Property or take such action as it deems necessary to enforce the Governing Documents;
17. In its discretion, contract with an individual or entity to generally supervise and control the business of the Association and delegate certain powers, duties and responsibilities to such individual or entity;
18. Adopt, amend, enforce and repeal Rules and Regulations applicable that apply to the CT Condominium, Unit Owners and their guests and invitees. Such Rules and Regulations may govern use of the Common Elements and Units, the personal conduct of Unit Owners and their family members, guests and invitees, and may govern construction and design criteria and aesthetic standards so as to further the use, enjoyment and aesthetics of the CT Condominium

for the Owners, including, but not limited to, Rules and Regulations: to (i) prevent or reduce fire hazard; (ii) prevent disorder and disturbances of the peace; (iii) regulate pedestrian and vehicular traffic; (iv) regulate household animals, the environment and environmental practices; (v) regulate signs; (vi) regulate any use of the General Common Elements to assure fullest enjoyment of use by the persons entitled to enjoy and use the same; (vii) promote the general health, safety and welfare of persons within the property; and (viii) protect and preserve property and property rights. Such Rules and Regulations may also establish enforcement mechanisms, including penalties and monetary fines for violation thereof. Following adoption, amendment or repeal of any Rules and Regulations the Board shall provide Unit Owners with notice thereof. Copies of all such Rules and Regulations and amendments thereto in effect from time to time shall be furnished to Unit Owners upon request; and

19. Exercise all the powers that may be exercised by the Association under the Act and/or the Unit Ownership Act.