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KAREN E. RUSHING
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THIS INSTRUMENT PREPARED BY
AND RETURN TO:
DAVID G. MULLER, ESQ.
BECKER & POLIAKOFF, P.A.
6230 UNIVERSITY PARKWAY, SUITE 204
SARASOTA, FL 34240

**CERTIFICATE OF AMENDMENT
TO THE
DECLARATION OF CONDOMINIUM
OF
CAPRI WEST, A CONDOMINIUM**



The undersigned officers of Capri West Condominium Association, Inc., a not for profit Florida corporation organized and existing to operate and govern Capri West Condominium Association, Inc., according to the Declaration of Condominium thereof recorded in O.R. Book 1407, Page 1427, et seq., as amended, of the Public Records of Sarasota County, Florida, hereby certifies that the following amendment to the Declaration of Condominium was duly adopted in the manner provided in the governing documents of the Association and applicable law at a duly convened membership meeting held on April 18, 2012.

(Additions indicated by underlining, deletions by ~~strike through~~)

1. **Amendment to Article 12 of the Declaration of Condominium to read as follows:**

12. TRANSFER OF CONDOMINIUM UNIT. In order to maintain a community of congenial residents and protect the value of the condominium property, and in order to assure insofar as possible the financial ability of each condominium unit owner to pay assessments against his condominium unit, the transfer of condominium units by any owner ~~other than the Developer~~ shall be subject to these restrictions, so long as the condominium property shall be subject to the condominium form of ownership under the Laws of Florida.

12.1 Transfer, Sale or Lease of Unit. No condominium unit owner or other person may either transfer or acquire title on or to any interest in any condominium unit, or having so acquired such interest, continue to hold ownership of any such interest, except with written approval of the Association in accordance with the provisions of this ~~Section~~ Article 12. The provisions of this Article 12 Section shall apply to any transfer of a condominium unit or any interest therein, whether made by sale, lease ~~for more than one (1) year~~, gift, devise, inheritance, transfer to or from a trustee, mortgage, transfer by enforcement of lien or other involuntary transfer by operation of law, or any other voluntary or involuntary transfer of any such interest, except as otherwise stated herein. Transfers contemplated hereby shall include, but not be limited to, the transfer and creation of remainder or other future interests creation of life estates, distribution by trustees, creation of joint or common ownership interests, with or without survivorship rights, and any other transfer or transaction or act by which title to or any interest in a condominium unit either is transferred or may be subject to automatic transfer upon the occurrence or nonoccurrence of an event yet to transpire. A unit may not be leased for less than ninety (90) days. No subleasing, room renting or rent sharing shall be permitted, it being the

intent of this provision that each lease, and the tenancy created thereby, shall comply with the single family use and limitation on occupancy provided elsewhere herein.

a. No owner acquiring title shall be approved or permitted to lease for the first twelve (12) months of ownership, except in the case of hardship as determined in the sole discretion of the Board.

b. The lease of a condominium unit is defined as occupancy of the condominium unit by any person other than the unit owner, whether pursuant to verbal or written agreement, where said occupancy by the non-owner involves consideration (the payment of money, the exchange of goods or services, or any other exchange of value).

12.2 PROCEDURE FOR SALE, TRANSFER OR LEASE. The procedure for review and approval or disapproval by the Association are:

a. Notice to the Association:

1. Sale, Lease, Gift or Transfer in Trust – A unit owner intending to sell or lease his unit, or any interest therein, or intending to make a gift of such unit or interest therein, or to transfer any interest to a trust, shall give notice to the Association of such intention, together with the name and address of the intended purchaser, lessee, donee, or trustee, and such other information as the Association may reasonably require. Notice of a lease shall be accompanied by a copy of the proposed lease and the name of the proposed lessee(s), as well as all proposed occupants. Such notice, if a sale, at the unit owner's option may include a demand by the owner that the Association furnish a purchaser if the proposed purchaser is not approved. If such demand is made, the notice shall be accompanied by a copy of the executed proposed contract of sale. Any person occupying the condominium unit after initial approval shall be subject to a separate application and approval process. The Board shall have the authority to promulgate or use a uniform lease application and require such other information from the proposed lessee(s) and all proposed occupants as the Board deems appropriate under the circumstances. The Board may require an interview of any proposed lessee(s) and all proposed occupants of a unit, as a condition for approval.

2. Devise, Inheritance or Distribution by Trust – A condominium unit owner who has obtained his title, or interest in a unit, by devise, inheritance, distribution of a beneficial interest under a trust or by any other manner not heretofore considered, shall give to the Association notice of the acquisition of the title, together with such other information concerning the unit owner and his acquisition as the Association may reasonably require, together with a certified copy of the instrument evidencing the condominium unit owner's title, unless the requirement of certification is waived by the Association.

3. Lessee / Occupant Conduct; Remedies. Uniform leases, addenda and all other leases will provide, or be deemed to provide that the lessee(s) and occupants have read and agreed to be bound by this Declaration, Articles of Incorporation, Bylaws, and Rules and Regulations as the same may be amended from time to time (the "Condominium Documents"). The uniform lease or addendum and other leases shall further provide or be deemed to provide that any violation of the Condominium Documents shall constitute a material breach of the lease and subject the lessee(s) and occupants to eviction as well as any other remedy afforded by the

Condominium Documents or Florida law. If a lessee, occupant, guest or invitee fails to abide by the Condominium Documents, the condominium unit owner shall be responsible for the conduct of the lessee, occupant, guest or invitee and shall be subject to all remedies set forth in the Condominium Documents and Florida law, without waiver of any remedy available to the Association as to the lessee(s) and occupants. The condominium unit owner shall have the duty to bring their lessee's conduct (and that of the other occupants, guests or invitees) into compliance with the Condominium Documents by whatever action is necessary, including without limitation the institution of eviction proceedings without notice to cure, where legally permissible. If the condominium unit owner fails to bring the conduct of the lessee(s) into compliance with the Condominium Documents in a manner deemed acceptable by the Association, the Association shall have the authority to act as agent of the condominium unit owner to undertake whatever action is necessary to abate the lessees' noncompliance with the Condominium Documents (or the other noncompliance of other occupants, guests or invitees), including without limitation the right to institute an action for eviction against the lessee(s) in the name of the Association in its own right, or as agent of the condominium unit owner. The Association shall have the right to recover any costs or fees, including attorney's fees, incurred in connection with such actions, from the condominium unit owner which shall be secured by a continuing lien in the same manner as assessments for common expenses, to wit, secured by a lien for charges. Any uniform lease or lease addendum will provide, or be deemed to provide that the Association shall have the authority to direct that all rental income related to the condominium unit be paid to the Association until all past due and current obligations of the Association have been paid in full, including but not limited to all past due Assessments, charges, other monetary obligations, late fees, interest, attorneys' fees and cost and expenses of collection.

4. Security Deposit for Leases. The Board of Directors shall have the authority, as a condition of granting approval to a lease or renewal or extension thereof, to require that a prospective lessee(s) or condominium unit owner place a security deposit in an amount not to exceed the equivalent of one month's rent into an escrow account maintained by the Association to protect against damage to the common elements or association property. Payment of interest, claims against the deposit, refunds, and disputes under this paragraph shall be handled in the same fashion as provided in Part II of Chapter 83 of the Florida Statutes (2011) as amended from time to time.

b. Certificate of Approval or Disapproval:

1. Sale, Lease, Gift or Transfer in Trust – If the proposed transaction is one for which notice has been given the Association pursuant to 12.2 (a) (1) above, the Association shall have thirty (30) days after receipt of such notice and such other information as the Association may require within which either to approve or disapprove of the proposed transaction. Such approval or disapproval shall be stated in a certificate executed by officers or agents of the Association thereunto duly authorized in recordable form.

2. Other Acquisition – If the transaction is one for which notice has been given to the Association pursuant to 12.2 (b) (1) above, then the Association shall have thirty (30) days after receipt of such notice and other information as the Association may require within which either to approve or disapprove of such transaction and the continuance of the condominium unit owner's ownership interest in the condominium unit. A certificate of

approval or disapproval shall be executed by the officers or agents of the Association thereunto duly authorized in recordable form and delivered to the person who had given such notice within thirty (30) days after having received the notice.

c. Disapproval by Association: If the Association shall disapprove a transfer of ownership of a unit, or an interest therein, the Association shall follow the following procedures:

1. **Disapproval of Transfer or Continuance of Ownership by Board of Directors.** If the Board of Directors shall disapprove a transfer or continuance of ownership of a unit, the matter shall be disposed of in the following manner:

(a) Sale or Other Arms-Length Transaction to Bona Fide Third Party. If the proposed transaction is a sale or other arms-length transfer to a bona fide third party purchaser, and has been disapproved without good cause, then within thirty (30) days after receipt of such notice and information, the Association shall deliver or mail by certified mail to the unit owner an agreement to purchase the unit concerned by a purchaser approved by the Board of Directors, or the Association itself, who will purchase and to whom the unit owner must sell the unit upon the following terms:

1. At the option of the Association to be stated in the agreement, the price to be paid shall be that stated in the disapproved contract to sell or shall be the fair market value determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers, one of whom shall be appointed by the unit owner and the other of whom shall be appointed by the Association, who shall base their determination upon an average of their appraisals of the unit; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be shared by the parties.

2. The purchase price shall be paid in cash. The sale shall be closed within thirty (30) days after the delivery or mailing of the agreement to purchase, or within ten (10) days after the determination of the sale price if such is by arbitration, whichever is the later. If the Association shall fail to itself purchase the unit, or provide a purchaser, or if a purchaser furnished by the Association or the Association shall default in his agreement to purchase, then notwithstanding the disapproval, the proposed transaction shall be deemed to have been approved and the Association shall furnish a certificate of approval.

(b) Gifts; Devise; Inheritance; Familial Transfers. If the unit owner giving notice has acquired or will acquire his title by gift, devise, inheritance, or succession laws or in any other manner, and if the Board wishes to disapprove the transfer or continuance of ownership without good cause, then within thirty (30) days after receipt from the unit owner of the notice and information required to be furnished, the Board of Directors shall deliver or mail by certified mail to the unit owner an agreement to purchase the unit concerned by a purchaser approved by the Board of Directors (including the Association itself) who will purchase and to whom the unit owner must sell the unit upon the following terms:

1. The sale price shall be the fair market value determined by agreement between the grantor and grantee within thirty (30) days from the

delivery or mailing of such agreement. In the absence of agreement as to price, or where transfers are made for less than bona fide value, the price shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers, one of whom shall be appointed by the Association and the other of whom shall be appointed by the unit owner, who shall base their determination upon an average of their appraisals of the Unit; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be shared by the parties.

2. The purchase price shall be paid in cash. The sale shall be closed within ten (10) days following the determination of the sale price. If the Association shall fail to purchase the unit or provide a purchaser, or if the Association or a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval, such transfer ownership shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided.

(c) Disapproval for Good Cause. Disapproval for good cause of title transfers or the continuation of ownership pursuant to this Section 12.2, shall be made by the Board of Directors. Only the following may be deemed to constitute good cause for disapproval:

1. The application for approval on its face, or subsequent investigation thereof, indicates that the person seeking approval (which shall hereinafter include all proposed occupants) intends to conduct himself in a manner inconsistent with the Condominium Documents;

2. The person seeking approval (which shall hereinafter include all proposed occupants) has been convicted of or has pleaded no contest to:

(a) a felony involving violence to persons, theft, arson or destruction of property within the past twenty (20) years; or

(b) a felony demonstrating dishonesty or moral turpitude within the past ten (10) years; or

(c) a felony involving illegal drugs within the past ten (10) years; or

(d) any other felony in the past five (5) years; or

(e) a felony involving sexual battery, sexual abuse, or lewd and lascivious behavior regardless of when that conviction occurred.

3. The person seeking approval has been labeled a sexual offender or a sexual predator by any governmental or quasi-governmental agency regardless of when that conviction occurred or when that label occurred.

4. The person seeking approval is currently on probation or community control.

5. The person seeking approval has a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures, or bad debts;

6. The person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in other social organizations or associations, or by his conduct in this condominium or other residences as a lessee, occupant, guest or owner;

7. The person seeking approval failed to provide the information, fees or appearance required to process the application in a timely manner;

8. The unit owner requesting the transfer has had fines assessed against him or her which have not been paid; or,

9. All assessments and other charges against the unit have not been paid in full.

If the Board disapproves a transfer for good cause, the Association shall have no duty to purchase the unit or furnish an alternate purchaser, and the transaction shall not be made, or if made, shall be rescinded in the manner determined by the Board.

~~If the proposed transaction is a sale, the Association shall deliver to the condominium unit owner an agreement to purchase by a purchaser approved by the Association, other than the Association itself, who will purchase and to whom the unit owner must sell the condominium unit or interest therein upon the following terms:~~

~~_____ (a) The price to be paid shall be that stated in the disapproved contract to sell, and the notice shall be accompanied by a deposit check in the amount of the deposit reflected in such contract. All other terms shall be the same as those provided for in the disapproved contract, except that the closing date shall be not less than thirty (30) days after the delivery or mailing of said agreement to purchase.~~

~~_____ (b) The unit owner may, at his option, after receipt of such agreement from the Association, elect not to proceed with the sale.~~

2. **Disapproval of Lease by Board of Directors.** If the proposed transaction is a lease the unit owner shall be advised of the disapproval in writing and the lease shall not be permitted. The Association shall neither have a duty to provide an alternate lessee nor shall it assume any responsibility for the denial of a lease application if any denial is based upon any of the following factors:

(a) The person seeking approval (which shall hereinafter include all proposed occupants) has been convicted of a crime involving violence to persons, a crime demonstrating dishonesty or moral turpitude or any felony;

(b) The application for approval on its face, facts discovered in connection with the Association's investigation, or the conduct of the applicant, indicate that the person seeking approval intends to conduct himself in a manner inconsistent with the

Condominium Documents. By way of example, but not limitation, a lessee taking possession of the premises prior to approval by the Association as provided for herein shall constitute a presumption that the applicant's conduct is inconsistent with the Condominium Documents and may constitute grounds for denial;

(c) The person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in other housing facilities or associations, or by his conduct in this condominium as a lessee, occupant or guest;

(d) The unit owner or person seeking approval has failed to provide the information, fees, or appearances required to process the application in a timely manner;

(e) All assessments, fines and other charges and monetary obligations against the unit and/or unit owner have not been paid in full.

(f) Liability. The liability of the unit owner under the Condominium Documents shall continue notwithstanding the fact that they may have leased or rented his interest in the unit as provided herein.

(g) Association Fee. The unit owner or lessee(s) seeking approval of a lease of a unit shall pay a transfer fee for each applicant in an amount determined by the Board, which unless otherwise specified, shall be the maximum amount permitted by law. No charge shall be made in connection with an extension or renewal of a lease.

~~3. If the Association has disapproved a transaction or acquisition other than in the circumstances provided for by subsections (1) and (2) of this section, including without limitation instances of gift, devise, inheritance, distribution by a trust or acquisition of title to a condominium unit or any interest therein by any other voluntary or involuntary procedure, then within thirty (30) days the Association shall deliver to the unit owner an agreement to purchase by a purchaser approved by the Association to whom the unit owner must sell the condominium unit or the interest therein transferred or acquired, upon the following terms:~~

~~_____ (a) The sales price for the interest shall be the fair market value thereof determined by agreement between the owner of such interest and the purchaser within thirty (30) days from the delivery of such agreement, and in the absence of an agreement as to price, the price shall be determined by arbitration, in accordance with the then existing rules of the American Arbitration Association, except that the arbitrator shall be two appraisers appointed by the American Arbitration Association. The arbitrators shall base their determination upon the average of their separate appraisals of the condominium unit, or interest therein. A judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of arbitration shall be paid by the purchaser.~~

~~_____ (b) The purchase price shall be paid in cash.~~

~~_____ (c) The sale shall be closed within fifteen (15) days following the determination of the sales price.~~

~~_____ (d) Corporate or Partnership Owners: The approval of ownership by the corporation or partnership may be conditioned upon the requirement that all persons who shall occupy the condominium unit pursuant to such ownership shall also be approved by the Association.~~

~~_____ (e) Mortgages: The condominium unit owner may mortgage his condominium unit or any interest therein without the approval of the Association, to an institutional mortgagee, the Developer or the successors in interest to the Developer. The approval of any other mortgagee is required of the Association. Nothing herein contained shall prevent the owner of a condominium unit from receiving a purchase money mortgage as part of the consideration for an approved sale of his condominium unit, or an interest therein.~~

~~_____ (f) Approval Standards: The Association shall administer its approval and disapproval authority under this article in a fair, equitable and uniform manner. In making its determination, the Association shall consider the apparent ability of the proposed owner to meet the financial obligations of condominium unit ownership and membership in the Association; the probable willingness and likelihood that such person will abide by the provisions of this Declaration and all applicable rules and regulations pertaining to the condominium unit; and such other factors as may be relevant to the maintenance and operation of the condominium property in a harmonious manner.~~

(g)3. Exceptions. The foregoing provisions of this Section 12.2 shall not apply to a transfer to or purchase by a bank, life insurance company or savings and loan association or other mortgagee approved by the Association that acquires its title as the result of owning a purchase money first mortgage upon the unit concerned, and this shall be so whether the title is acquired by deed from the mortgagor, or through foreclosure proceedings. However, a transferee of a first mortgagee shall be required to be approved by the Association and comply with all other terms of the Condominium Documents as a condition of ownership and holding title to a unit in Capri West.

~~Exceptions: The provisions of this section shall not apply to a transfer to or purchased by an institutional mortgages, acquiring its title as a result of owning a mortgage upon a condominium unit, whether such title is acquired through foreclosure proceedings or by deed in lieu of foreclosure proceedings or the provisions of this section shall not apply to a transfer, sale or lease by the Developer.~~

~~Approval shall not be required by the association of a purchaser who acquires title to a condominium unit at a duly advertised public sale, with open bidding, which is conducted pursuant to law, including but not limited to execution sales, foreclosure sales, judicial sales and tax sales.~~

Approval shall not be required by the Association of a sale of a unit to an existing member of the Association.

(h)4. Separation of Condominium Unit Prohibited:

Any sale or transfer of a condominium unit, or interest therein, shall include all of the appurtenances thereto, including the limited common element appurtenant whether so stated or

not, and no appurtenance may be severed from a condominium unit and sold, transferred or otherwise dealt with separate and apart from the condominium unit to which it is appurtenant. No condominium unit may be partitioned or further subdivided; provided, however, that this provision shall not be deemed to prevent ownership of a condominium unit in undivided interests.

(+)5. Unapproved Transactions: Any sale, conveyance, mortgage, lease or other transfer which is not authorized or approved pursuant to the terms of this Declaration shall be voidable, unless subsequently approved by the Association.

(+)6. **Transfer Fee.** The Association may charge a processing fee for the approval of transfers of title. The fee may not exceed the maximum permitted by law per transaction. The Association or its authorized agent may also charge a reasonable fee for the preparation of a certificate, commonly known as an estoppel certificate, stating all assessments and other monies owed to the Association by the unit owner with respect to the condominium unit. The fee for the preparation of such certificate shall be established by a written resolution of the Board or provided for in a management, bookkeeping, or maintenance contract.

~~Fees for Review: No fees shall be charged by the Association in connection with the review for purposes of approval or disapproval pursuant to this section, which are in excess of the expenditures reasonably required for such review. In no event shall such fee exceed the fee permitted under the Condominium Act, from time to time, which at the time of creation of this Condominium is \$50.00.~~

7. Notices of Lien or Suit:

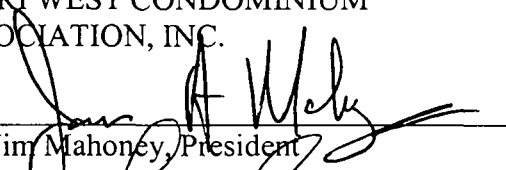
1. Notice of Lien: A unit owner shall give notice, in writing, to the Association of every lien upon his unit, other than permitted mortgages, taxes and special assessments, within five (5) days after the attachment of the lien.

2. Notice of Suit: A unit owner shall give notice in writing, to the Association of every suit or other proceeding which may affect the title to his unit, such notice to be given within five (5) days after the unit owner obtains knowledge of such suit.

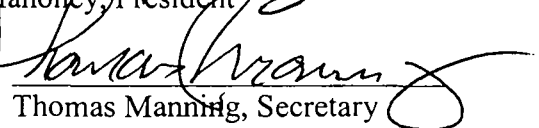
3. Failure to Comply: Failure to comply with this subsection shall not be construed to affect the validity of any lien or suit.

CAPRI WEST CONDOMINIUM
ASSOCIATION, INC.

By:


Jim Mahoney, President

ATTEST


Thomas Manning, Secretary

[Signature]
Witness Signature

Francis Martin
Printed Name

[Signature]
Witness Signature

SHAUN O'GRADY
Printed Name

STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 1st day of May 2012 by James Mahoney, as President and Thomas Manning, as Secretary of Capri West Condominium Association, Inc., a Florida corporation, on behalf of the corporation. They are personally known to me or have produced _____ as identification. If no type of identification is indicated, the above-named persons are personally known to me.

Barbara L O'Grady
Notary Public Barbara L O'Grady
Printed Name _____

State of Florida
My Commission Expires



BARBARA L. O'GRADY
MY COMMISSION # EE 182927
EXPIRES: June 18, 2016
Bonded Thru Budget Notary Services

ACTIVE: 3818161_1