

FOR REGISTRATION
J. David Granberry
REGISTER OF DEEDS
Mecklenburg County, NC
2012 JUL 30 11:34:02 AM
BK:27528 PG:144-150
FEE:\$26.00
INSTRUMENT # 2012102961

JONESAW



2012102961

drawn by/mail to:

Cynthia A. Jones
Horack, Talley, Pharr & Lowndes
2600 One Wells Fargo Center
301 S. College Street
Charlotte, NC 28202-6038

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

**AMENDMENT TO THE DECLARATION OF
FRANCISCAN TERRACE CONDOMINIUMS**

This instrument is executed and certified in accordance with the provisions of Section 26 of the Declaration of Franciscan Terrace Condominiums recorded in Book 4317, Page 0179 and amended in Book 20342 Page 932 and amended in Book 24471 Page 257 of the Mecklenburg County Public Registry (hereinafter "the Declaration").

STATEMENT OF PURPOSE

Section 26 of the Declaration sets forth that the Declaration may be amended in strict compliance with the North Carolina Condominium Act. Any amendment shall require the affirmative vote or written consent of Members owning at least sixty-seven percent (67%) of the aggregate undivided interest in the Common Areas and Facilities.

In accordance with the terms of the Declaration, the President of the Franciscan Terrace Homeowners Association, Ltd. ("Association") may certify with his signature that this amendment received the appropriate Owner approval. This amendment will become effective when recorded.

NOW, THEREFORE, The President of the Association, in accordance with the Declaration, does hereby certify the due and proper adoption of the following Amendment to the Declaration.

2012
JUL 30

AMENDMENT TO THE DECLARATION

A new Section 32 of the Declaration is added as follows:

“32. Lease of Units. The Association and its Board of Directors has deemed it to be in the best interest of Unit Owners to restrict the number of Units that may be leased or occupied by persons other than the Unit Owner. Such restrictions will, among other things, enhance property values by promoting stability and reducing resident turnover; increase interest by the Unit Owners in the appearance and maintenance of the Condominium; minimize problems of rule enforcement and vandalism; and ensure that Units and Unit Owners qualify for certain federally-supported mortgage programs. These restrictions do not restrict any Owners rights under the First Amendment or any other provision of the U.S. Constitution, nor are they violative of public policy.

- A. Notice to Board: Any Unit Owner intending to make a lease of his/her Unit shall give prior written notice to the Board of Directors (or any Managing Agent designated by the Board) of such intention. For purposes of this Section, “lease” is defined as regular, exclusive occupancy of a Unit by any person(s) other than the Unit Owner, for which the Unit Owner receives any consideration or benefit, including but not limited to, a fee, service, or gratuity. The required notice shall include the complete terms of the proposed lease, and such other information as the Board or its agent shall reasonably require. All leases of Units shall be in writing, utilizing standardized lease forms provided by or approved by the Board or its Managing Agent. No Unit shall be leased for a period of less than one (1) year. The Unit must be used for single-family residential use only and may not be used for transient or hotel purposes. No Unit shall be leased to occupants receiving Section 8 assistance or other governmental rent assistance. The provisions of this Section 32 shall also apply to any renewal, extension, or modification to the terms of any lease of a Unit. No subleasing of a Unit shall be allowed except during the exemption period for those Units that may have a current sublease in effect as of the date of this amendment and are listed on the attached Exhibit A.

- B. Approval of the Board: Within fifteen (15) days after receipt of such notice, the Board or its Managing Agent shall provide the Unit Owner with written notice of its approval or disapproval of the proposed lease. The decision of the Board shall be final and non-appealable, but approval shall not be unreasonably withheld. The Board’s approval may be conditioned upon the addition, deletion, or modification of any provision of the proposed lease. The Board specifically reserves the right to withhold the approval of any lease which would result in fifteen percent (15%) or more of the total number of Units in the Condominium being occupied by persons other than the Unit Owner. The failure of the Board to provide written notice to the Unit Owner of its approval or disapproval of the proposed lease within the 15-day period contemplated by this section shall be deemed an approval of the proposed lease.

- C. Occupancy by Immediate Family Member: The occupancy of a Unit by an immediate family member of the Owner(s) shall not be prohibited by the leasing restriction set forth above and shall not be included in the fifteen percent (15%) cap for leased Units.

For purposes of this section, "Immediate family member" shall mean an owner's spouse, parents and grandparents, children and grand-children, brothers and sisters, mother-in-law and father-in-law, brothers-in-law and sisters-in-law, daughters-in-law and sons-in-law. Adopted, half, and step members are also included in immediate family. Owners of immediate family occupied Units must notify the Board of such and provide to the Board the names and phone numbers of all occupants of the Unit as well as copies of any leases that may be in effect. When such Unit is vacated by the immediate family member, the leasing restrictions set forth above shall apply and this exemption shall cease to exist.

- D. Compliance with Declaration, By-Laws, and Rules and Regulations: Any Unit Owner leasing his/her Unit shall provide the Lessee with a copy of the Declaration, By-Laws, and Rules and regulations affecting the Condominium upon execution of the lease. The Lessee shall be bound in all respects by the provisions contained therein. The provisions of the Sections 8.7 ("Abatement and Enjoinment of Violation by Owners") and 8.12 ("Rules of Conduct") of the amended and restated By-Laws shall be applicable to and binding upon the Lessee of any Unit. Any default by a Lessee of such provisions shall entitle the Association to remedies including, fines, suspension of planned community privileges or services as well as the ability to terminate the lease. The Unit Owner hereby irrevocably appoint the Association as its lawful attorney-in-fact to take all actions necessary to terminate the lease and the Lessee's right to possession of the Unit, including the commencement of legal proceedings against the Unit Owner and/or the Lessee. However, prior to commencing eviction proceedings the Association shall follow the fine and hearing process as set forth in N.C.G.S. 47C-3-107.1.
- E. Void Transactions: Any lease or occupancy of a Unit which is not approved pursuant to the terms of this Section shall be void, unless subsequently approved in writing by the Board. Any violation of these provisions may subject the Unit Owner to a fixed or daily fine, or suspension of planned community privileges and services, after notice and an opportunity to be heard, in accordance with N.C.G.S. 47C-3-107.1.
- F. Exception: Any Unit Owner whose Unit is being leased and/or subleased as of the effective date of this amendment may continue to lease the Unit irrespective of the fifteen percent (15%) limitation described in paragraph B above, however such lease shall be subject to all other provisions in this Section 32. In order to qualify for this exemption, the Unit Owner must notify the Board of such rental Unit, provide a copy of the current lease, and provide the names and phone numbers of all occupants of the leased unit prior to the effective date of this amendment. This exception shall remain in effect for the exempt Units as long as title to the Unit remains in the same Owner as of the effective date of this amendment. This exemption will expire when fee simple title to the Unit is transferred by the current owner to any other person or entity. Units which are currently leased and fall within this exemption are listed on the Exhibit A attached hereto and incorporated herein by reference. Any Unit which falls under this exemption, is listed on the Exhibit A, and has a current sublease in effect shall be

allowed to continue subleasing the property until such time as the Unit is conveyed to a new owner.

- G. Hardship: The Board of Directors reserves the right to waive any or all of these restrictions with respect to any particular Unit if strict enforcement hereof would result in an undue hardship on the Unit Owner. Decisions on claimed hardships shall be determined on a case-by-case basis, are in the sole discretion of the Board of Directors, and are not appealable by the Unit Owner.
- H. Legal Challenge: No action to challenge the validity of this amendment may be brought more than one (1) year after the amendment is recorded.

[SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, the undersigned, being the President of the Association, pursuant to the authority vested in them under the Declaration and By-Laws of the Condominium, do hereby certify this amendment was approved in accordance with the Declaration.

FRANCISCAN TERRACE HOMEOWNERS ASSOCIATION, LTD.

By: *Chris Cherry*
Chris Cherry
Its: President

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, the undersigned, a Notary Public in and for said County and State, do hereby certify this 27 day of July, 2012, Chris Cherry either personally known to me or proven by satisfactory evidence, personally appeared before me this day and acknowledged that he is President of the Franciscan Terrace Homeowners Association, Ltd., a North Carolina corporation, and that he/she voluntarily executed the foregoing on behalf of the corporation for the purposes therein by its authority duly given.

WITNESS my hand and notarial stamp or seal.

Cynthia Jones
(Notary signature)
Print Name: *Cynthia Jones*
My Commission Expires: *6-2-2015*

[NOTARY SEAL]

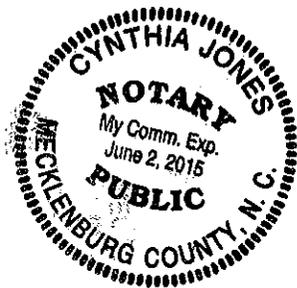


Exhibit A

Building 1 - 4736

E - Weijiang Gu
F - Jeffrey Todd Terry
J - Andrea Blevins
M - Glenn Andrews
Q - Nicholas C. Hayes
R - John F. Barnes
S - Virgil & Constance Cunningham
T - Edmund Tubel

Building 2 - 4754

A - Jeffrey & Patsy Linker
B - Christopher Ledford
C - Allison W. Wright
D - Ronald Pand & Debra Chou
G - Kimberly Burns Mills
I - David Radoff
K - Francois & Julie Gros (subleased)
L - John F. & Natalie C. Barnes
M - Elena & Jennifer Mills
P - Ann Curto Pollina
T - Michael J. & Bygie Mattick

Building 3 - 4755

D - Joseph H. Aikens
I - Charles Stuart
J - Beth Burke

Building 4 - 4747

B - Saunders Campbell Smith
H - Holly Thomas
I - Zachary James Cardais
S - Douglas & Jeanne Robertson

Building 5 - 4743

C - Jennifer Loiseau
E - Elizabeth Kakacek Battista

F - Beth Burke
I - Travis Edwards (Edward-Belch Properties LLC)
N - Wayne H. Page
P - Martha M. Aiken

Building 6 - 4739

D - Renee (Bianucci) Hoffman
E - Bobbie McFadden
K - Richard F. & Martha A. Marvin

Building 7 - 4735

A - Cody G. Starnes & Aaron Whitecotton
B - Natalie Barnes
C - Roberta Anderson
G - Jessica Squires Johnson
H - Alex Burnett
J - Elizabeth E. Norton & Laura E. Evans
K - Karen Moore
M - David M. & Anne M. Allen
P - Rosemarie F. Broadway
Q - Betty (Gabbai) Naderi
T - Arno & Alessandra Czerveny