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LAW OFFICES OF RICHARD A. TINNELL:  
85 Argonaut, Suite 100  
Aliso Viejo, California 92656  
(949) 588-0866

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THIS SPACE FOR RECORDER'S USE ONLY

SEVENTH AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS  
OF  
BEACHWALK HOMEOWNERS ASSOCIATION

THIS SEVENTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for BEACHWALK HOMEOWNERS ASSOCIATION is made by BEACHWALK HOMEOWNERS ASSOCIATION, a California nonprofit mutual benefit corporation (hereinafter referred to as "Beachwalk").

A. On March 22, 1972, Mansion-Hall Company, a partnership ("Declarant"), executed a Declaration of Covenants, Conditions and Restrictions for Beachwalk Homeowners Association, which was recorded on March 27, 1972, as Document No. 22320, in Book 10053, Pages 737, et seq., Official Records of Orange County, California ("Official Records") ("Declaration").

B. On January 5, 1973, Declarant executed a First Amendment to the Declaration of Covenants, Conditions and Restrictions, which was recorded on January 16, 1973, as Document No. 12621, in Book 10516, Pages 109, et seq., of the Official Records ("First Amendment").

C. On July 9, 1973, Declarant executed a Second Amendment to the Declaration of Covenants, Conditions and Restrictions, which was recorded on July 13, 1973, as Document No. 1756, in Book 10798, Pages 174, et seq., of the Official Records ("Second Amendment").

D. On January 2, 1974, Declarant executed a Third Amendment to the Declaration of Covenants, Conditions and Restrictions, which was recorded on January 7, 1974, in Book 11052, Pages 1754, et seq., of the Official Records ("Third Amendment").

E. On November 14, 1974, Declarant executed a Fourth Amendment to the Declaration of Covenants, Conditions and Restrictions, which was recorded on November 20, 1974, as Document No. 16208, in Book 11290, Pages 1720, et seq., of the Official Records ("Fourth Amendment").

F. On September 17, 1975, Declarant executed a Fifth Amendment to the Declaration of Covenants, Conditions and Restrictions, which was recorded on November 21, 1975, as Document No. 25811, in Book 11575, Pages 1399, et seq., of the Official Records ("Fifth Amendment").

G. On October 25, 1990, pursuant to Court order dated July 20, 1990, in Orange County Superior Court Case No. 58 74 53, by the Honorable Eileen C. Moore, Judge of the Orange County Superior Court, granting Beachwalk's petition to amend the Governing Documents upon a reduced percentage of affirmative votes, Beachwalk executed a Sixth Amendment of the Declaration of Covenants, Conditions and Restrictions, which was recorded on November 27, 1990, as Document No. 90-624266, of the Official Records ("Sixth Amendment").

H. Declaration and First, Second, Third, Fourth, Fifth, and Sixth Amendments referred to above are hereinafter collectively referred to as the "Governing Documents."

I. Beachwalk is situated in the City of Huntington Beach, County of Orange, State of California, and is described legally on Exhibit "A" attached hereto and incorporated herein by this reference.

J. A Statement of Names of owners representing the voting power of Beachwalk pursuant to Government Code, Section 27288.1 is attached hereto as Exhibit "B" and incorporated herein by this reference.

K. California Civil Code, Section 1356 permits an Association to petition the Superior Court of the county in which the common interest development is located for an order approving any amendment to the Declaration.

L. On January 29, 1999, Commissioner F. Latimer Gould, of the Orange County Superior Court, granted Beachwalk's petition to amend the Declaration in accordance with the complaint/petition assigned Case No. 80 33 58 to reduce the percentage of affirmative votes necessary for amendment of a Declaration of the Covenants, Conditions and Restrictions, as indicated in the Order, attached hereto as Exhibit "C" and incorporated herein by reference as though fully set forth at length.

M. The Association desires to amend the Declaration in accordance with Exhibit "C."

NOW, THEREFORE, Section 9, Subparagraph (a), is hereby amended to eliminate the obligation to repair or maintain the television cable antenna and shall read in full as follows:

"9. Powers and Duties of Board of Directors. Developer (and its managing body or agent), until the first Board of Directors has been elected, and, thereafter, the Board of Directors, for the benefit of all of the unit owners, shall acquire and/or pay for out of the maintenance fund, the following:

(a) Garbage and trash disposal, and water, sewer, electricity, telephone, gas, ~~television cable antenna~~ and other utility services necessary or proper for the common areas only and, if necessary or proper for the common areas only and, if not separately metered or charged, water and sewer for the individual units and maintenance service for the common areas including but not limited to all private streets within the PRD."

N. The Declaration may be amended by vote or written consent of the members representing at least three quarters of the voting power of the Association (223 votes).

NOW, THEREFORE, pursuant to Article 23 of the Declaration, Article 9 is amended to add the following:

"(k) The Board may adopt an inspection and maintenance program for the prevention and eradication of infestation by wood destroying pests and organisms in the units. It is anticipated that any such program will be funded through special assessments. If the Board adopts an inspection and prevention program, the Association upon reasonable notice (which shall be given no less than fifteen (15) days and no more than thirty (30) days before the date of temporary relocation) to each owner, and the occupant(s) of his unit, may require such owner and occupant(s) to temporarily relocate from such unit in order to accommodate efforts by the Association to eradicate such infestation. The notice shall state the reasons for the temporary relocation, the date and time of the beginning of the treatment, the anticipated date and time of termination of the treatment, and that the occupant(s) will be responsible for their own accommodations during the temporary relocation. Any damage

caused to a unit by such entry by the Board or by any person authorized by the Board shall be repaired by the Board as a Common Expense of the Association. All costs involved in inspecting, maintaining, repairing and replacing the Common Property and Improvements thereon, or the need for such maintenance, repair, or replacement, the result of wood destroying pests or organisms, shall be a Common Expense."

EXCEPT AS AMENDED by this Seventh Amendment, the Governing Documents are hereby ratified and confirmed by the parties and shall continue to be in full force and effect.

IN WITNESS WHEREOF, the undersigned, being the duly elected President and Chief Financial Officer of the Beachwalk Homeowners Association, have executed this Seventh Amendment to the Declaration on behalf of the Beachwalk Homeowners Association on this 26<sup>th</sup> day of May, 1999.

BEACHWALK HOMEOWNERS ASSOCIATION,  
a California Nonprofit Mutual  
Benefit Corporation

By: *Rita Spira*  
RITA SPIRA

Its: President

By: *Kim Hady Hamou*  
KIM HADJ-HAMOU

Its: Secretary

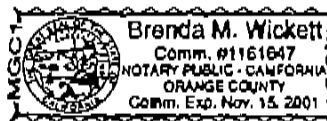
STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On May 26, 1999 before me, Brenda M. Wickett, Notary Public,  
(here insert name and title of the officer), personally appeared  
Rita L. Spira and Kim H. Hamou

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Brenda M. Wickett



STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On \_\_\_\_\_ before me, \_\_\_\_\_,  
(here insert name and title of the officer), personally appeared

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

ASSOCIATION PROPERTY DESCRIPTION

(1) Lots 1-97, Tract 7473, recorded in Book 293, Pages 33-40 of Miscellaneous Maps, in the Office of the Orange County Recorder.

(2) Lots 98-169, Tract 8003, recorded in Book 315, Pages 10-13 of Miscellaneous Maps, in the Office of the Orange County Recorder.

(3) Lots 170-223, Tract 8224, recorded in Book 327, Pages 13-15 of Miscellaneous Maps, in the Office of the Orange County Recorder.

(4) Lots 224-318, Tract 8247, recorded in Book 337, Pages 48-50 of Miscellaneous Maps, in the Office of the Orange County Recorder.

(5) Lots 319-410, Tract 8248, recorded in Book 350, Pages 19-21 of Miscellaneous Maps, in the Office of the Orange County Recorder.

(6) Lots 411-463, Tract 7155, recorded in Book 356, Pages 38-40 of Miscellaneous Maps, in the Office of the Orange County Recorder.

EXCEPT WELL SITES EXCLUDED HEREFROM PURSUANT TO EXHIBIT "A" OF THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS.

1 LAW OFFICES OF RICHARD A. TINNELLY  
85 Argonaut, Suite 100  
2 Aliso Viejo, California 92656  
(949) 588-0866

**FILED**  
ORANGE COUNTY SUPERIOR COURT

JAN 29 1999

ALAN SLATER, Executive Officer/Clerk  
*T. Gonzales*  
BY T. GONZALES

3  
4 Attorneys for Petitioner  
BEACHWALK HOMEOWNERS ASSOCIATION, a  
5 California nonprofit mutual benefit  
CORPORATION

RECEIVED  
JAN 29 1999  
ALAN SLATER, Clerk of the Court

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF ORANGE

11 BEACHWALK HOMEOWNERS ) CASE NO. 80 33 58  
ASSOCIATION, a California ) Comm. F. Latimer Gould/Dept. C64  
12 non-profit mutual benefit )  
corporation, ) ORDER RE ADOPTION OF AMENDED  
13 ) DECLARATION OF COVENANTS,  
Petitioner, ) CONDITIONS AND RESTRICTIONS  
14 ) AND RESERVATION OF EASEMENTS  
vs. )  
15 )  
16 ALL MEMBERS OF THE BEACHWALK )  
HOMEOWNERS ASSOCIATION, )  
17 Respondents. )

1-29-99  
930 AM  
OC64

19 The petition of BEACHWALK HOMEOWNERS ASSOCIATION and opposition  
20 thereto having been duly considered by the court on January 29,  
21 1999, Bruce R. Kermott of the Law Offices of Richard A. Tinnelly,  
22 appeared on behalf of the petitioner; and after considering the  
23 argument of counsel and good cause appearing;

24 **IT IS ORDERED THAT:**

25 1. That the amendment of Section 9 subsection (a) entitled  
26 "Powers and Duties of Board of Directors" is hereby confirmed as  
27 being validly approved based on the affirmative votes received  
28 during the Association balloting, even though less than 75%, based

1 on the following findings:

2 (a) That petitioner has given not less than thirty (30)  
3 days written notice of court hearing to all members  
4 of the Association;

5 (b) That no mortgage of a mortgage, beneficiary of a  
6 Deed of Trust, City or County is entitled to notice  
7 of hearing under the terms of the existing  
8 Declaration;

9 (c) That balloting on the proposed amendment was  
10 conducted in accordance with all applicable  
11 provisions of the Governing Documents;

12 (d) That a reasonably diligent effort was made to  
13 permit all eligible members to vote on the proposed  
14 amendment;

15 (e) That owners having more than fifty percent (50%) of  
16 the votes voted in favor of the amendment;

17 (f) That no multiclass voting structure presently  
18 exists, any such prior multiclass voting structure  
19 having terminated in or before 1992;

20 (g) That the amendment is reasonable;

21 (h) That the proposed amendment would not change  
22 provisions in the Declaration requiring the  
23 approval of owners having more than fifty percent  
24 (50%) of the votes in more than one class to vote  
25 in favor of an amendment, unless owners having more  
26 than fifty percent (50%) of the votes each affected  
27 class approved the amendments;

28 (i) That the proposed amendment would not eliminate any

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special rights, preferences, or privileges designated in the existing Declaration as belonging to the Declarant without Declarant's consent; and (j) That the proposed amendment would not impair the security interest of a mortgagee of a mortgage or the beneficiary of a Deed of Trust.

4. The amendment of Section 9, subsection (a) entitled "Powers and Duties of Board of Directors" is hereby confirmed as being validly approved based on the affirmative votes received during the Association balloting.

DATED: 1-29-99

FORWARD COPY TO THE BOARD  
Commissioner F. Latimer Gould

VERIFICATION (C.C.P. 446 AND 2015.5)

STATE OF CALIFORNIA, COUNTY OF ORANGE

I have read the foregoing

contents.

and knows its

CHECK APPLICABLE PARAGRAPHS

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I am  an officer  a partner  a \_\_\_\_\_ of \_\_\_\_\_

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason.

I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I am one of the attorneys for \_\_\_\_\_, a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on (date) \_\_\_\_\_, at \_\_\_\_\_, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Type or Print Name

Signature

PROOF OF SERVICE

CCP 1013a(3) Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of

California. I am over the age of 18 and not a party to the within action; my business address is 85 Argonaut, Suite 100, Aliso Viejo, CA 92656

On (date) 2/18/99, I served the foregoing document described as ORDER RE ADOPTION OF AMENDED CC&R's on all Members of Beachwalk Homeowners Assoc. in this action

by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:

by placing  the original  a true copy thereof enclosed in sealed envelopes addressed as follows:

BY MAIL

I deposited such envelope in the mail at \_\_\_\_\_, California. The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day, with postage thereon fully prepaid at Aliso Viejo, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on (date) 2/18/99, at Aliso Viejo, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Lisa R. Small

Type or Print Name

Jose R. Small

Signature

\*(BY MAIL, SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX OR BAG) \*\*FOR PERSONAL SERVICE, SIGNATURE MUST BE THAT OF MESSENGER)