

FIFTH AMENDMENT TO CONDOMINIUM DECLARATIONS FOR BEARS DEN CONDOMINIUMS

THIS FIFTH AMENDMENT TO CONDOMINIUM DECLARATIONS FOR BEARS DEN CONDOMINIUMS (this "Amendment") is made and executed by the Bears Den Condominiums HOA dba Bears Den Condominium Association, Inc., a Colorado nonprofit corporation (the "Association"), and is agreed to and ratified by Tusso Development and Management, Inc., a Colorado corporation (the "Declarant"), pursuant to the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, *et. seq.*, as follows:

Background

- A. The Condominium Map for Bears Den Condominiums was recorded on January 18, 2007, at Rec. No. 844742 in the records of the Clerk and Recorder, Summit County, Colorado (the "Plat");
- B. The Condominium Declarations for Bears Den Condominiums was recorded July 18, 2007, at Rec. No. 861283 (the "Declaration");
- C. Subsequent amendments to the Declaration, including the Plat, made and executed by the Declarant were rescinded by the Unit Owners as described in the Notice Concerning Rescission of Amendments to Condominium Declarations for Bears Den Condominiums recorded on March 23, 2012, at Rec. No. 989231 (the "Notice");
- D. The Executive Board of the Association and the Declarant determined that it would be in the best interest of the Association to amend the Declaration to address certain outstanding issues;
- E. The Declaration may be amended by the affirmative vote or agreement of Unit Owners to which more than sixty-seven percent of the votes in the Association are allocated pursuant to Section 15.2(A) of the Declaration and C.R.S. § 38-33.3-217(1)(a)(I);
- F. The Unit Owners adopted this Amendment by the requisite affirmative vote or agreement;
- G. Capitalized terms in this Amendment have the same meaning as provided in the Declaration except as defined herein.

Amendment

NOW THEREFORE, the Association hereby amends the Declaration as follows:

- 1. Section 15.2(A) of the Declaration is revised to indicate that the Declaration may be amended by the affirmative vote or agreement of Unit Owners to which more than sixty-seven percent of the votes in the Association are allocated.

2. The Plat is amended and replaced by the First Amended Plat attached as Exhibit A.

3. Except as specifically set forth herein, all development rights reserved in the Declaration or Plat are terminated.

4. Except for those special declarant rights reserved at Article III, §§ 3.4(A), (C), (E), and (I) of the Declaration, all special declarant rights reserved in the Declaration or Plat are terminated.

5. The Common Elements described on the First Amended Plat as HOA Storage A and HOA Storage B are currently a single enclosed storage area. The Declarant is reserved a development right for a period of five years or by the closing date of the sale of Unit 20, whichever comes first, to allocate HOA Storage B as a Limited Common Element parking space to Unit 20 (A-3). The development right is subject to the following requirements:

a. Prior to exercising the development right, the Declarant will provide the Association with the following documents for approval, which will not be unreasonably denied:

i. A proposed amendment pursuant to C.R.S. § 38-33.3-210 including a proposed amendment to the First Amended Plat prepared by a surveyor and complying with C.R.S. § 38-33.3-209; and

ii. General plans for the work described below to create the Limited Common Element.

b. Within 30 days after exercising the development right, the Declarant will, at its own expense, using an insured contractor, and after obtaining any necessary government approvals or permits, remove the existing wall, construct a new wall with secure door in the location shown on the First Amended Plat by a dashed line to segregate HOA Storage A from the new Limited Common Element, install necessary electrical work and fixtures so that HOA Storage A is properly illuminated with its own lighting controls, and finish all such improvements consistent with other finishes in the area;

c. The Unit Owners and Association shall enjoy the privilege of using the Limited Common Element created by this development right for ingress and egress to HOA Storage A and for vehicle back-up as practical.

6. The area labeled CE (Bikes) on the First Amended Plat is restricted to storage of bicycles owned by Unit Owners and such other uses as the Executive Board may allow from time to time by appropriate rule.

7. Those areas labeled CE Visitor on the First Amended Plat are restricted to use by invitees and guests of Residential Unit Owners, snow storage, and such other uses as the Executive Board may allow from time to time by appropriate rule.

8. The area labeled CE Handicap Van Accessible on the First Amended Plat is restricted to use by vehicles displaying a valid handicapped license.

7. Except as amended herein, the Declaration continues in full force and effect.

IN WITNESS WHEREOF, the Association has executed this Fifth Amendment to Condominium Declarations for Bears Den Condominiums this ___ day of April, 2012.

BEARS DEN CONDOMINIUMS HOA
DBA BEARS DEN CONDOMINIUM ASSOCIATION, INC.

By: Jim Steinberger, President

State of _____)ss.
County of _____)

Before me this ___ day of _____, 2012, personally appeared Jim Steinberger, as President of Bears Den Condominiums HOA dba Bears Den Condominium Association, Inc., a Colorado Nonprofit Corporation, who acknowledged the foregoing instrument.

Witness my hand and seal.

Notary Public

My Commission Expires:

SEAL

The Klug Law Firm, LLC

AGREED AND RATIFIED BY:

TUSO DEVELOPMENT AND MANAGEMENT, INC.

By: Thomas A. Tusso, President

State of _____)ss.

County of _____)

Before me this ___ day of _____, 2012, personally appeared Thomas A. Tusso, as President of Tusso Development and Management, Inc., a Colorado corporation, who acknowledged the foregoing instrument.

Witness my hand and seal.

Notary Public

My Commission Expires:

SEAL