

UNOFFICIAL COPY

0030125532

11/27/2003 80 002 Page 1 of 13
2003-01-28 09:22:52
Cook County Recorder 48.00

PI511.002 JCV 10/23/02 7th

**SECOND AMENDMENT TO
DECLARATION OF
CONDOMINIUM OWNERSHIP
AND OF EASEMENTS,
RESTRICTIONS AND
COVENANTS FOR BARRETT
BROS. COURTYARD ESTATES
NO. 3**



0030125532

THIS SECOND AMENDMENT to the Declaration of Condominium Ownership and of Easements, Restrictions and Covenants for **BARRETT BROS. COURTYARD ESTATES NO. 3** is made and entered into this 15th day of October 2002.

WHEREAS, there has heretofore been recorded a Declaration of Condominium Ownership and of Easements, Restrictions and Covenants for **BARRETT BROS. COURTYARD ESTATES NO. 3** (hereinafter referred to as "Declaration") which Declaration was recorded in the Office of the Recorder of Deeds, Cook County, Illinois on July 24, 1973 as Document Number 22410784.

WHEREAS, there subsequently was recorded a First Amendment to the Declaration which First Amendment was recorded in the Office of the Recorder of Deeds, Cook County, Illinois on November 7, 1973 as Document Number 22538228.

WHEREAS, said Declaration contained in it an Article XIII, Paragraph 7 providing for amendments as follows:

"7. *Amendment.* The provisions of Article III, Article VI, Paragraph (n)

This Instrument Prepared by:

***John C. Voorn
Hiskes, Dillner, O'Donnell, Marovich & Lapp, Ltd.
10759 West 159th Street, Suite 201
Orland Park, Illinois 60467
(708) 403-5050
Firm ID No.: 80407***

PINs: See Exhibit "B"

***Common Address:
Vicinity of 177th & South Harlem
Tinley Park, Illinois 60477***

Return to Box: 330 JCV

of Article VII, Paragraph 5 of Article VIII, and this Paragraph 7 of Article XIII of this Declaration, may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the Board, all of the Owners and all mortgagees having *bona fide* liens of record against any Unit Ownerships. Other provisions of this Declaration may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the Board, the Owners having at least 3/4ths of the total vote and containing an affidavit by an officer of the Board certifying that a copy of the change, modification or rescission has been mailed by certified mail to all mortgagees having *bona fide* liens of record against any Unit Ownership, no less than ten (10) days prior to the date of such affidavit. The change, modification or rescission shall be effective upon recordation of such instrument in the Office of the Recorder of Deeds of Cook County, Illinois; provided, however, that no provision in this Declaration may be changed, modified or rescinded so as to conflict with the provisions of the Condominium Property Act.

Emphasis added.

WHEREAS, the unit owners of the **Barrett Bros. Courtyard Estates No. 3 Condominium** consist of the members of an Illinois not-for-profit corporation (hereinafter referred to as "Association" or in the alternative, the "corporation"), referred to as **Barrett Bros. Courtyard Estates No. 3** (hereinafter the "Association").

WHEREAS, the Board of Directors and the unit owners have determined that an amendment to the Declaration will benefit the safety and welfare of the members of the Association.

WHEREAS, the unit owners are concerned that current lending guidelines of mortgage lenders as well as the secondary mortgage market (specifically the refusal of some lenders to make first mortgages on condominium units in condominiums where too many rental units are present) could make **Barrett Bros. Courtyard Estates No. 3** condominium units unmarketable in the future.

WHEREAS, the Board of Directors and the unit owners are concerned that a proliferation of rental units in the condominium complex could lead to an overall decline in the upkeep of said rental units with the result that the condominium units could be adversely affected in terms of

UNOFFICIAL COPY

marketability and resale in the future.

WHEREAS, the unit owners through their voting members, who own more than three-fourths (3/4 th) of the total percentage ownership of the common elements created by the Declaration approve this Second Amendment.

WHEREAS, the Declaration contained a provision relative to sales and leases in Article VIII, Paragraph 1 which provides as follows:

“1. **Sale or Lease.** Any unit owner other than the Trustee who wishes to sell or lease his Unit Ownership (or any lessee of any Unit wishing to assign or sublease such Unit) shall give to the Board not less than thirty (30) days prior written notice of the terms of any contemplated sale or lease, together with the name, address and financial and character references of the proposed purchaser or lessee and such other information concerning the proposed purchaser or lessee as the Board may reasonably require. The members of the Board acting on behalf of the other Owners shall at all times have the first right and option to purchase or lease such Unit Ownership upon the same terms, which option shall be exercisable for a period of thirty (30) days following the date of receipt of such notice of contract. If said option is not exercised by the Board within said thirty (30) days, the Owner (or lessee) may, at the expiration of said thirty (30) day period and at any time within ninety (90) days after the expiration of said period, contract to sell or lease (or sublease or assign) such Unit Ownership to the proposed purchaser or lessee named in such notice upon the terms specified therein. If the Owner (or lessee) fails to close said proposed sale or lease transaction within said ninety (90) days, the Unit Ownership shall again become subject to the Board’s right of first refusal as herein provided.”

WHEREAS, said Declaration in Article VIII, Paragraph 7 contained a provision for Proof of Termination of Option which provides as follows:

“7. **Proof of Termination of Option.** A certificate executed and acknowledged by the acting Secretary of the Board stating that the provisions of this Article VIII as hereinabove set forth have been met by an Owner, or duly waived by the Board, and that the rights of the Board hereunder have terminated, shall be conclusive upon the Board and the Owners in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Owner who has in fact complied with the provisions of this Article or in respect to whom the provisions of this Article have been waived, upon request at a reasonable fee, not to exceed TEN AND NO/100ths (\$10.00) DOLLARS.”

WHEREAS, the Declaration in Article VIII, Paragraph 10 contains the following provision:

"10. **Exceptions to Board's Right of First Refusal.** The Board's right of first refusal as provided in Sections 1, 2, and 3 of this Article VIII shall not apply to any sale, lease, gift, devise or transfer by the Trustee or Developer, or between co-owners of the same Unit, or to the spouse, or to any lawful children of the Owner, or any one or more of them, or to any trustee of a trust, the sole beneficiary or beneficiaries of which are the Owner, the spouse or lawful child of the Owner, or any one or more of them."

NOW, THEREFORE, Article VIII, Paragraph 1 of the Declaration is hereby deleted in its entirety and the following is substituted in its place:

"1. **Rental Prohibition - Sales.**

a. It is the intent and desire of the Unit Owners of the Barrett Bros. Courtyard Estates No. 3 Condominium (the "Association") that the Unit Owners of each unit shall occupy and use such unit as a private residential dwelling for himself or herself. Therefore, the leasing of units to others as a regular practice for speculative, investment or related purposes is prohibited.

b. However, the Board of Directors of the Association, in the sole discretion of a majority of its members, may, in writing, approve a lease of a unit owner's unit for a period not to exceed one (1) year when it is demonstrated to the satisfaction of the majority of the Board by the unit owner that the Board's prohibition of the proposed lease would create an undue hardship on the unit owners.

Any unit owner desiring to lease his unit because of his belief that not being able to do so would cause him undue hardship shall submit to the Board a written request to lease his unit ownership not less than thirty (30) days prior to the commencement date of the proposed lease. Such written request to lease shall have appended to it at the time of its submission to the Board, a sworn statement in proper form, signed by the unit owner(s) setting forth the factual basis of the unit owners' belief that the general prohibition against the leasing of units described in the Declaration and Bylaws found in Article VIII, Paragraph 1(a), as amended, and as applied to them, would cause them undue hardship, and what the undue hardship factually would consist of. Within thirty (30) days of its receipt of such written request to lease, the Board shall deliver or cause to be delivered to the requesting unit owner, its written statement approving or disapproving the written request to lease.

If a proposed lease of any unit is made by any unit owner after compliance with the provisions of Article VIII, Paragraph 1, and securing the approval of the Board, a copy of the lease as and when executed shall be furnished by such unit owner to the Board.

UNOFFICIAL COPY

Unit owners must make available to the lessee copies of the condominium instruments to include the Declaration, Bylaws and Rules and Regulations. Any lease of a unit in the Barrett Bros. Courtyard Estates No. 3 condominium shall be deemed to contain the following provisions, whether or not expressly therein stated, and each owner covenants and agrees that any lease of the unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into a lease by existence of this covenant on the unit. Any lessee by occupancy in a unit, agrees to the applicability of this covenant and incorporation of this covenant and the following language into the lease:

i. Lessee (tenant) agrees to abide by and comply with all of the provisions of the condominium instruments including the Declaration, Bylaws and Rules and Regulations. The above provisions shall not be construed to release the unit owner from any obligation for which he or she would otherwise be responsible.

ii. Any violation of the Declaration, Bylaws or condominium Rules and Regulations is deemed to be a violation of the terms of the lease and authorizes the unit owners/lessor to terminate the lease without liability and to evict the lessee/tenant in accordance with Illinois law. The owner/lessor hereby delegates and assigns to the Association, an Illinois not-for-profit corporation, acting through the Board of Directors, the power and authority to enforce against the tenants/lessees and/or unit owners all breaches resulting from the violation of the Declaration, Bylaws or Rules and Regulations, including the power and authority to evict a tenant on behalf of and for the benefit of the owner of said unit, in accordance with the terms hereof, for violations of the Declaration, Bylaws or Rules and Regulations. In the event the Association proceeds to evict a tenant, or otherwise take legal action against the tenant, any costs, including attorneys' fees and court costs associated with the eviction or other legal action shall be specially assessed against the unit and the owner thereof, such being deemed hereby as an expense which benefits the leased unit and the owner thereof. In addition, the Association and its Board shall have all of the rights and remedies provided to it as set forth in the Illinois Condominium Property Act (765 ILCS 605/1 *et seq.*) and the Illinois Code of Civil Procedure, as applicable (735 ILCS 5/9-101, *et seq.*)

c. The provisions of Article VIII, Paragraph 1(a) shall have no retroactive application to any unit owner who is leasing their unit on the date this Second Amendment to the Declaration is approved as determined by the date it bears. Any unit owner so leasing their unit on the date of approval of this Second Amendment to the Declaration shall have the right to continue to lease their unit to the same tenant, and renew the lease to that same tenant for so long as that tenant occupies the unit. However, once the lease, or any renewal lease with that tenant comes to an end or the tenant no longer occupies the unit, the owners right to lease the unit shall then become subject to Article VIII, as amended. The provisions of Article VIII, Paragraph 1(a), shall not apply to the rental or leasing of units to immediate family members of unit owners. Immediate family members shall be defined as parents and children.

If a unit owner violates any of the provisions set forth in Article VIII of the Declaration, as amended, the unit owner so violating shall be liable to the Association for all of the latter's attorneys' fees and court costs and related expenses incurred on behalf of the Association by the Board for the purpose of enforcing the provisions of this Article VIII.

d. Any unit owner who desires to sell or lease (subject to all of the provisions of Article VIII, Paragraphs 1(a) through (c) inclusive above and any other applicable provisions of the Declaration) his unit or any lessee of any unit wishing to assign his lease or sublease any such unit or any interest therein to any person shall first obtain from the proposed purchaser, lessee or assignee a *bona fide* offer in writing, setting forth all of the terms and conditions of said proposed transaction. If any unit owner receives such an offer which he intends to accept, he shall provide written notice to the Association of such offer and such intention, stating the name and address of such proposed purchaser, lessee, assignee or sublessee, the terms of the proposed transaction and such other information as the Association may reasonably require. Such notice shall contain an executed copy of such offer. The providing of such notice shall constitute a warranty and representation by the provider thereof that he believes such offer, and all of the information contained in said notice to be *bona fide*, true and correct in all respects. During the period of thirty (30) days following the receipt by the Association of such written notice, the Association shall have the right and option to purchase or lease such unit (or to cause the same to be purchased or leased by any designee or assignee, corporate or otherwise of the Association) upon the same terms and conditions as stated in the aforesaid notice received by the Association. If the Association shall provide written notice to the unit owner or lessor within said thirty (30) days of its election to purchase or lease the unit (or to cause the same to be purchased or leased by its designee or assignee) then such purchase or lease by the Board or its designee or assignee as aforesaid shall be closed upon the same terms as such proposed sale or lease.

If the Association shall provide written notice to the seller or lessor within said thirty (30) day period that it has elected not to exercise such option or if the Association shall fail to provide such notice within said thirty (30) day period that it does or does not elect to purchase or lease as herein provided, then the proposed sale or lease transaction as described as set forth in the notice to the Association may be contracted within sixty (60) days after the expiration of said thirty (30) day period. If the seller or lessor fails to contract for such sale or lease within said sixty (60) day period, or if he shall so contract but such sale or lease shall not be consummated pursuant to such contract, then such unit and all rights with respect thereto shall become subject to the Association's right of first refusal and option herein provided. This subparagraph (d) as to leases is expressly made subject to Article VIII, Paragraph 1(a) through (c).

The provisions of this Article VIII, Paragraph 1 shall govern to the extent of any inconsistent or contrary provisions, or other references to leases, elsewhere in the Declaration."

NOW, THEREFORE, Article VIII, Paragraph 7 is hereby deleted and the following is

UNOFFICIAL COPY

substituted in its place:

“7. ***Proof of Termination of Option.*** A certificate executed and acknowledged by the acting secretary of the Board stating that the provisions of this Article VIII as hereinabove set forth have been met by a unit owner, or duly waived by the Board, and that the rights of the Board hereunder have terminated, shall be conclusive upon the Board and the unit owners in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any unit owner who has in fact complied with the provisions of this Article or in respect to whom the provisions of this Article have been waived, upon request at a reasonable fee to be determined by the Board of Directors.”

NOW, THEREFORE, Article VIII, Paragraph 10 is hereby deleted and the following is substituted in its place:

“10. ***Exceptions to Board’s Right of First Refusal.*** The Board’s right of first refusal as provided in Sections 1, 2, and 3 of this Article VIII shall not apply to any sale, lease, gift, devise or transfer by any corporation, trust or other entity when the original unit owner or persons having at least majority control of said unit owner are in control of the transferee, or resulting from statutory merger or consolidation, or between co-owners of the same unit, or any one or more of them, or to any trustee of a trust, the sole beneficiary or beneficiaries of which are the unit owner, the spouse or lawful child of the unit owner, or any one or more of them, or from any trustee of a trust to any one or more of the beneficiaries thereof. Notwithstanding anything to the contrary in this Declaration, the Board’s right of first refusal as contained in this Declaration shall not impair the rights of a first mortgagee to:

- a. Foreclose or take title to a condominium unit pursuant to the remedies provided in the mortgage; or
- b. Accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor, or
- c. Sell or lease a unit acquired by the mortgagee.

Also excluded from the provisions of the Declaration, Article VIII relative to the Association’s right of first refusal is any lease made necessary as a result of legal proceedings, such as appointment of a trustee in bankruptcy relative to a unit, the appointment of a receiver of the unit, the presence of the unit in a probate or guardianship estate or where the Board of Directors takes

UNOFFICIAL COPY

possession of the unit pursuant to Article IX (735 ILCS 5/9-101, *et seq.*) of the Illinois Code of Civil Procedure, all of which leases are expressly permitted.”

Except for the above-described provisions of the Declaration amended hereby, all other provisions of said Declaration are hereby confirmed and ratified.

This Second Amendment shall be effective upon the date of its recording with the Recorder of Deeds, Cook County, Illinois.

APPROVAL OF BOARD OF DIRECTORS OF BARRETT BROS. COURTYARD ESTATES NO. 3 CONDOMINIUM

Amy Peterson
Amy Peterson, Director & President

Ann-Marie Hartnett
Ann-Marie Hartnett, Director & Secretary

Dale Ridderhoff
Dale Ridderhoff, Director & Treasurer

Carol Bosma
Carol Bosma, Director

Angeline McCarthy
Angeline McCarthy, Director

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

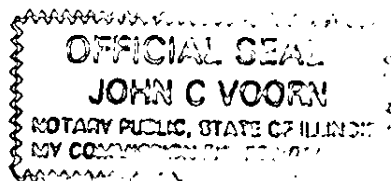
ACKNOWLEDGMENT

John C. Voorn, a Notary Public in and for said county in the State aforesaid does hereby certify that Amy Peterson, President, Ann-Marie Hartnett, Secretary Dale Ridderhoff, Treasurer, Carol Bosma, Director, Angeline McCarthy, Director being all of the members of the Board of Directors of the Barrett Bros. Courtyard Estates No. 3, an Illinois not-for-profit corporation, personally known to be the same persons whose names are subscribed to this instrument as said Board of Directors appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as the free and voluntary act of the corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal this 15th day of October 2002

John C. Voorn
Notary Public

(Seal)



UNOFFICIAL COPY

EXHIBIT "A"

LEGAL DESCRIPTION OF BARRETT BROS. COURTYARD ESTATES NO. 3 CONDOMINIUM UNITS

Units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 in Barrett Bros. Courtyard Estates No. 3 Condominium as delineated on a survey of the following described real estate:

Portions of Lot 97, all of Lot 98, 99, 100, 101, 102, 103 and 104 and a portion of Lot 105 in Barrett Bros. Fourth Addition to Tinley Park, a subdivision of part of Lot 6 in the Circuit Court partition of Sections 29, 30 and 31, in Township 36 North, Range 13, according to the plat recorded May 22, 1893, CC 108560, in Cook County, Illinois which survey is attached as Exhibit "A" to Declaration of Condominium Ownership made by Standard Bank and Trust Company, an Illinois corporation, as Trustee under Trust Agreement dated April 2, 1953 and known as Trust Number 1200 and recorded in the Office of the Recorder of Deeds of Cook County, Illinois on July 24, 1973 as Document Number 22410784, as amended from time to time, together with their undivided percentage interest in the Common Elements.

Approved by Cook County Clerk's Office

UNOFFICIAL COPY**EXHIBIT "B"**
PIN'S

UNIT NUMBER	PIN	PERCENTAGE INTEREST
1	28-31-114-043-1001	4.079
2	28-31-114-043-1002	4.009
3	28-31-114-043-1003	4.009
4	28-31-114-043-1004	4.079
5	28-31-114-043-1005	4.383
6	28-31-114-043-1006	4.149
7	28-31-114-043-1007	4.149
8	28-31-114-043-1008	4.383
9	28-31-114-043-1009	4.079
10	28-31-114-043-1010	4.009
11	28-31-114-043-1011	4.009
12	28-31-114-043-1012	4.079
13	28-31-114-043-1013	4.383
14	28-31-114-043-1014	4.149
15	28-31-114-043-1015	4.149
16	28-31-114-043-1016	4.383
17	28-31-114-043-1017	4.079
18	28-31-114-043-1018	4.079
19	28-31-114-043-1019	4.219
20	28-31-114-043-1020	4.383
21	28-31-114-043-1021	4.079
22	28-31-114-043-1022	4.079
23	28-31-114-043-1023	4.219
24	28-31-114-043-1024	4.383

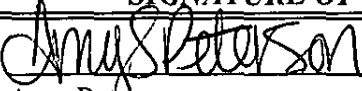
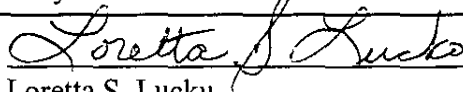
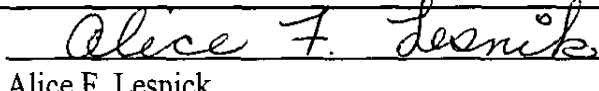
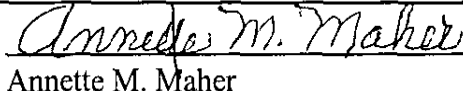
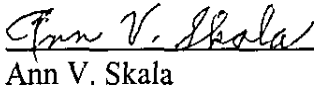


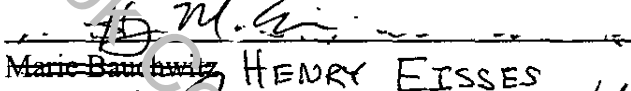

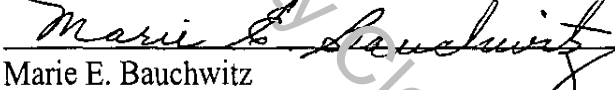
UNOFFICIAL COPY

EXHIBIT "C"

APPROVAL OF VOTING MEMBERS

UNIT NUMBER	SIGNATURE OF VOTING MEMBERS
1	
2	<div style="font-family: cursive; font-size: 1.2em;">Carol Bosma</div> Carol Bosma
3	<div style="font-family: cursive; font-size: 1.2em;">Darlene Corkery</div> Darlene Corkery
4	<div style="font-family: cursive; font-size: 1.2em;">Drew Kleinhofer</div> Drew Kleinhofer
5	
6	<div style="font-family: cursive; font-size: 1.2em;">Jan Miletic</div> Jan Miletic
7	<div style="font-family: cursive; font-size: 1.2em;">John Konen</div> John Konen
8	<div style="font-family: cursive; font-size: 1.2em;">Jivko Jelev</div> Jivko Jelev
9	<div style="font-family: cursive; font-size: 1.2em;">Joan M. Murphy</div> Joan M. Murphy
10	<div style="font-family: cursive; font-size: 1.2em;">Angeline McCarthy</div> Angeline McCarthy
11	<div style="font-family: cursive; font-size: 1.2em;">Ann L. Ridderhoff</div> Ann L. Ridderhoff
12	<div style="font-family: cursive; font-size: 1.2em;">Robert S. McLain</div> Robert S. McLain
13	<div style="font-family: cursive; font-size: 1.2em;">Ann-Marie Hartnett</div> Ann-Marie Hartnett
14	

UNOFFICIAL COPY

UNIT NUMBER	SIGNATURE OF VOTING MEMBERS
15	 Amy Peterson
16	 Loretta S. Lucku
17	 Alice F. Lesnick
18	 Annette M. Maher
19	 Ann V. Skala
20	 Catherine Kratochwill
21	 John C. Garofalo
22	 Marie Bauchwitz HENRY EISSES
23	 Michael Bell
24	 Marie E. Bauchwitz

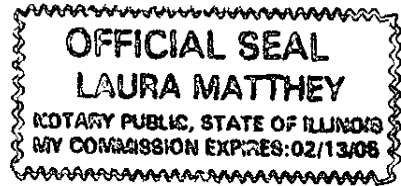
UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

Laura Matthey, the undersigned, being a notary public in and for said county and state hereby certifies that the above voting members, being members of Barrett Bros. Courtyard Estates No. 3, an Illinois not-for-profit corporation, have signed this Second Amendment as their free and voluntary act, for the purposes therein set forth.

Subscribed and sworn to before me this 19th day of November, 2002.

Laura Matthey
Notary Public



AFFIDAVIT

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

The undersigned, Ann-Marie Hartnett, being the Secretary of Barrett Bros. Courtyard Estates No. 3, an Illinois not-for-profit corporation, on first being sworn upon her oath deposes and states that the above Second Amendment to the Declaration was approved by all of the Board of Directors and voting members whose percentage of interest in the aggregate exceeded seventy-five (75%) and those voting members have indicated their approval by affixing their signature thereto at a special meeting of the Association called by the Board and held pursuant to notice on this 15th day of October 2002 and that the undersigned hereby certifies that a copy of this Second Amendment has been mailed by certified mail to all mortgagees having *bona fide* liens of record against any unit ownership not less than ten (10) days prior to the date of this Affidavit.

Ann Marie Hartnett
ANN-MARIE HARTNETT, Secretary

Subscribed and sworn to before me this 19th day of November, 2002.

Laura Matthey
Notary Public



This instrument prepared by:
John C. Voorn, Hiskes, Dillner, O'Donnell, Marovich & Lapp, Ltd.
10759 West 159th Street, Suite 201
Orland Park, Illinois 60467
(708) 403-5050; Attorney ID No.: 80407
Return to Box 330 - JCV
N:\Word\VOORN\barrett brothers amendment