

Doc# 1815630 12/06/2010 1:49PM
 Filed & Recorded in Official Records of
 MONROE COUNTY DANNY L. KOLHAGE

This instrument prepared by
 and return to:

Robert H. Gebaide, Esq.
 BAKER & HOSTETLER
 SunTrust Center, Suite 2300
 200 South Orange Avenue
 Orlando, Florida 32802-0112
 (407) 649-4000

Doc# 1815630
 BK# 2495 Pg# 201

-----Space above this line for recording office use only-----

**FOURTH AMENDMENT TO DECLARATION OF CONDOMINIUM
 OF
 SUNSET HARBOR RESORT, A CONDOMINIUM**

THIS IS AN AMENDMENT to the Declaration of Condominium of SUNSET HARBOR RESORT, A CONDOMINIUM (the "Condominium"), as recorded in Official Records Book 1376, Page 1093, as amended by that First Amendment to the Declaration of Condominium of Sunset Harbor Resort, a Condominium, as recorded in Official Records Book 1376, Page 1257, and as further amended by that Second Amendment to Declaration of Condominium of Sunset Harbor Resort, a Condominium, as recorded in Official Records Book 1422, Page 1356, and as further amended by that Third Amendment to Declaration of Condominium of Sunset Harbor Resort, a Condominium, as recorded in Official Records Book 1426, Page 1588, all in the Public Records of Monroe County, Florida (collectively the "Declaration").

WITNESSETH

WHEREAS, the board of directors of the Sunset Harbor Resort Condominium Association, Inc., a not-for-profit Florida corporation (the "Managing Entity"), is the managing entity of the Condominium pursuant to Section 721.05(22), *Florida Statutes*, and 721.13(1), *Florida Statutes*.

WHEREAS, Section 721.855(2)(a)1., *Florida Statutes* establishes a trustee foreclosure procedure for assessment liens against timeshare interests.

WHEREAS, the Declaration does not prohibit the use of the trustee foreclosure procedure established by Section 721.855, *Florida Statutes*.

WHEREAS, the Managing Entity and the members of the Sunset Harbor Resort Condominium Association, Inc. (the "Association") desire to amend the Declaration to specifically provide for the use of the trustee foreclosure procedure.

WHEREAS, this Fourth Amendment to Declaration of Condominium of Sunset Harbor Resort, a Condominium ("Fourth Amendment") was adopted in accordance with Section 721.855, *Florida Statutes* and the Declaration at a duly called meeting of the Association held on October 11, 2010.

NOW, THEREFORE, the Declaration is hereby amended in the following manner:

024049, 094001, 103549637.1
 9/30/10 11:54 AM

Doc# 1815630
Bk# 2495 Pg# 202

1. The above recitals are true and corrected are incorporated into this Fourth Amendment by this reference.
2. Article 8.2(b) of the Declaration is hereby amended as follows [additions are shown as double-underlines; there are no deletions]:

(b) Lien for Assessments. The Association shall have a lien against each Unit or Unit Week, as applicable, for any unpaid assessments and for interest accruing thereon, which lien shall also secure any administrative late charges and reasonable attorneys' fees and costs incurred by the Association incident to the collection of such assessment or enforcement of such lien, whether or not legal proceedings are initiated. The lien is effective from and after recording a claim of lien in the Public Records of Monroe County, Florida stating the legal description of the Unit or Unit Week, as applicable, the name of the Owner of record, the amount claimed to be due and the due dates. The lien shall continue in effect until all sums secured by the lien shall have been fully paid or until such time as is otherwise permitted by law. Such claims of lien shall be signed and verified by an officer of the Association, or by an authorized agent of the Association. Upon full payment, the party making payment shall be entitled to a recordable satisfaction of lien, to be prepared by and recorded at such party's expense. All such liens shall be subordinate to any mortgage recorded prior to the date of recording the claim of lien, and all such liens may be foreclosed by a suit brought in the name of the Association in the same manner as a foreclosure of a mortgage on real property or, in the case of Unit Weeks, by utilizing the trustee (non-judicial) foreclosure procedure as permitted by Section 721, Florida Statutes (2010). The Association may also sue to recover a money judgment for unpaid assessments without thereby waiving any claim of lien.

In the event a Mortgagee shall obtain title to a Unit or Unit Week as a result of the foreclosure of such mortgage, or in the event such Mortgagee shall obtain title to a Unit or Unit Week as the result of a conveyance in lieu of foreclosure of such first mortgage, such Mortgagee shall not be liable, except to the extent required under Florida law, for that share of the Common Expenses or assessments chargeable to the Unit or Unit Week, or the Owner thereof, which became due prior to the acquisition of title by such Mortgagee, and any such unpaid share of Common Expenses, or assessments, chargeable against any such foreclosed Unit or Unit Week or against any Unit or Unit Week in a Unit transferred in lieu of foreclosure, shall be deemed a Common Expense to be paid in the same manner as other Common Expenses of the Condominium by all of the Owners.

Nothing contained herein shall be construed as a modification of any rights or remedies of the Association pursuant to Chapter 718 or Chapter 721, except to the extent that the Condominium Documents allow additional remedies to those expressly set forth in said statute and to the extent that such additional remedies are permitted by said statutes.

Doc# 1815630
Bk# 2495 Pg# 203

3. Article VIII of the Declaration is hereby amended, and Article 8.7 is added in its entirety, as follows [additions are shown as double-underlines; there are no deletions]:

8.7 Trustee Foreclosure. If a Unit Week Owner fails to make timely payments of Common Expenses, Ad Valorem Taxes, or special assessments, an assessment lien against the Owner's Unit Week may be foreclosed in accordance with a judicial foreclosure procedure or a trustee foreclosure procedure, either of which may result in the loss of the Owner's Unit Week. If the Association initiates a trustee foreclosure procedure, the Owner shall have the option to object pursuant to Florida law, and in such event the Association may thereafter proceed only by filing a judicial foreclosure action.

{Signature and Notarization Page Follows}

Doc# 1815630
Bk# 2495 Pg# 204

7. Article III, Section 3 of the Bylaws is amended to read as follows (additions are underlined and deletions are ~~struck through~~):

3. Members of the board of directors who are elected by Owners other than the Developer at the annual meeting of members held in 2010 and thereafter shall serve for ~~one~~ two (+2) years until the next annual meeting of the members held in a year ending in 0, 2, 4, 6, or 8 and thereafter, unless and until his successor is duly elected or qualified or until he is removed in the manner elsewhere provided.

8. Article V, Section 1 of the Bylaws is amended to read as follows (additions are underlined and deletions are ~~struck through~~):

1. The executive officers of the corporation shall be a president, a vice-president, a secretary, and a treasurer, all of whom shall be directors who shall be elected bi-annually by the board of directors at any meeting. Any person may hold two or more offices except that the president shall not also be the vice-president, secretary or treasurer, or assistant secretary or assistant treasurer. The board of directors shall from time to time elect such other officers and designate their powers and duties as the board determines necessary to manage the affairs of the Association.

Doc# 1815630
Bk# 2495 Pg# 205

IN WITNESS WHEREOF, the Association has executed this Amendment this 15 day of NOVEMBER, 2010.

WITNESSES:

SUNSET HARBOR RESORT CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation

Carol Di Santolo
Print Name: Carol Di Santolo

James Drum
Print Name: JAMES DRUM

Filomena Carfagno
Print Name: Filomena Carfagno

As its: PRESIDENT

STATE OF NY

COUNTY OF Suffolk

The foregoing instrument was acknowledged before me this 15 day of November, 2010, by James Drum, as President of Sunset Harbor Resort Condominium Association, Inc. (who is personally known to me) or (has produced NY Drivers License as identification), and who (did/did not) take an oath.

NOTARY PUBLIC:

FILOMENA CARFAGNO
Notary Public, State of New York
No. 01CA6072418
Qualified in Suffolk County
Commission Expires April 1, 20 14

Filomena Carfagno
(signature)

Filomena Carfagno
(print name)

My Commission Expires: