

This easement has been examined and the Grantor has complied with Section 3.19.202 of the Revised Code.

FEE \$ 0 4/5/11

EXEMPT \$ mem

Mark R. Stewart, County Auditor



Doc ID: 016373090004 Type: OFF
Kind: EASEMENT/RIGHT OF WAY
Recorded: 04/05/2011 at 01:43:01 PM
Fee Amt: \$48.00 Page 1 of 4
Lorain County, Ohio
Judith M Nedwick County Recorder
File **2011-0369480**

AMENDMENT TO THE
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND
RESERVATION OF EASEMENTS
FOR
MORNINGSIDE AT MARTIN'S RUN HOMEOWNERS' ASSOCIATION, INC.

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR MORNINGSIDE AT MARTIN'S RUN HOMEOWNERS' ASSOCIATION, INC. RECORDED AT INSTRUMENT NO. 2005-0102651, OF THE LORAIN COUNTY RECORDS ON **OCTOBER 7, 2005.**

**AMENDMENT TO THE
DECLARATION OF DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND RESERVATION OF EASEMENTS FOR MORNINGSIDE
AT MARTIN'S RUN HOMEOWNERS' ASSOCIATION, INC.**

WHEREAS, the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Morningside at Martin's Run Homeowners' Association, Inc. (the "Declaration") was recorded at Lorain County Records Instrument No. 2005-0102651, and

WHEREAS, the Morningside at Martin's Run Homeowners' Association, Inc. (the "Association") is a corporation consisting of all Owners in Morningside at Martin's Run and as such is the representative of all Owners, and

WHEREAS, Article 14, Section 14.2 of said Declaration authorizes amendments to the Declaration, and

WHEREAS, Owners representing at least 75% of the Association's current voting power have executed instruments in writing setting forth specifically the matter to be modified (the "Amendment"), and

WHEREAS, the Association has in its records the signed, written consents to the Amendment signed by Owners representing 77% of the Association's voting power as of January 14, 2011, and

WHEREAS, the Association has in its records the power of attorney signed by Owners representing 77% of the Association's voting power authorizing the Declarant to execute the Amendment on their behalf, and

WHEREAS, the proceedings necessary to amend the Declaration as required by the Declaration have in all respects been complied with.

NOW THEREFORE, the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Morningside at Martin's Run Homeowners' Association, Inc. is hereby amended by the following:

MODIFY DECLARATION ARTICLE 9, SECTION 9.3.11 entitled, "Decks, Patios and Privacy Fences Enclosing Decks and/or Patios." Said modification, to be made on Page 22 of the Declaration, as recorded at Lorain County Records,

Instrument No. 2005-0102651, is as follows (deleted language is crossed-out; new language is underlined):

9.3.11 Decks, Patios and Privacy Fences Enclosing Decks and/or Patios.

With respect to all Lots but not on the Condominium Property, an Owner may construct one deck and/or patio having up to 640 square feet in total area, provided such deck and/or patio may only be added onto the back of a Dwelling Unit and (i) the width of the deck and/or patio may be no wider than the width of the Dwelling Unit; and (ii) the deck and/or patio must extend no more than 16 feet from the rear foundation line of the Dwelling Unit toward the rear lot line; and (iii) decks and patios may not be placed between sun rooms and the rear lot line. Declarant, Builder or any Owner may construct a privacy fence to enclose the area in which the deck and/or patio is permitted by this Article 9.3.11 (whether the deck and/or patio are added or not). Provided, however, any such fence must be no greater than six ~~(6) five~~ ~~(5)~~ feet in height, must not be chain link and must be constructed with white vinyl or white aluminum materials and otherwise comply with local law. Provided further that Owners of said Lots shall be responsible to maintain, and repair, and replace said fence and to maintain all interior fenced in areas.

Any conflict between the above provision and any other provisions of the Declaration shall be interpreted in favor of this amendment increasing the height for privacy fences to six (6) feet. Upon the recording of this amendment, only Owners of record at the time of such filing shall have standing to contest the validity of this amendment, whether on procedural, substantive or any other grounds, provided further that any such challenge shall be brought in the court of common pleas within one year of the recording of the amendment.

IN WITNESS WHEREOF, the said Ontario Land Company (f.k.a. Oster Construction, Inc.) on behalf of Morningside at Martin's Run Homeowners' Association, Inc. has caused the execution of this instrument this 23rd day of MARCH, 2011.

ONTARIO LAND COMPANY (F.K.A. OSTER CONSTRUCTION, INC.)
on behalf of
MORNINGSIDE AT MARTIN'S RUN HOMEOWNERS' ASSOCIATION, INC.

By: Thomas J. Oster, President
THOMAS J. OSTER, its President

STATE OF OHIO)
COUNTY OF Stark) SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named Ontario Land Company (f.k.a. Oster Construction, Inc.) by its President, on behalf of Morningside at Martin's Run Homeowners' Association, Inc., who acknowledged that he did sign the foregoing instrument, and that the same is the free act and deed of said corporation and the free act and deed of him personally and as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in Canton, Ohio, this 23 day of March, 2011.

Sheila F. Barcus
NOTARY PUBLIC

SHEILA F. BARCUS
NOTARY PUBLIC, STATE OF OHIO
My Commission Expires 04-19-2014

Place notary stamp/seal here:

This instrument prepared by:
KAMAN & CUSIMANO, LLC,
Attorneys at Law
2000 Terminal Tower
50 Public Square
Cleveland, Ohio 44113
(216) 696-0650

KAMAN & CUSIMANO
2000 TERMINAL TOWER
50 PUBLIC SQUARE
CLEVELAND, OH 44113

H8⁰²mw lml/E

Kaman & Cusimano, LLC

ATTORNEYS AT LAW

(888) 800-1042
OHIOCONDOLAW.COM
OHIOHOALAW.COM

Lynda L. Kovach, Esq.
50 Public Square, Suite 2000
Cleveland, Ohio 44113

April 13, 2011

Morningside at Martin's Run HOA
c/o Carol Sauter, Property Manager
Continental Management
2012 West 25th Street, #301
Cleveland, Ohio 44113

Re: Fencing Amendment

Dear Ms. Sauter:

Enclosed, please find a copy of the fully executed and recorded Amendment to the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Morningside at Martin's Run Homeowners' Association, Inc. The Amendment was filed with the Lorain County Recorder's Office on April 5, 2011, at Instrument No. 2011-0369480. The Amendment became binding and effective on the date it was filed.

At this time, please send a copy to every owner, including the Board members. In doing so, owners should be advised to file the Amendment with their respective copy of the Declaration and Bylaws and that all of the documents must be passed onto the future buyer of their home.

With the receipt of the recorded Amendment, our work on this matter is complete and I have closed our file accordingly.


CLEVELAND
Terminal Tower
50 Public Square, Suite 2000
Cleveland, Ohio 44113
(216) 696-0650
(216) 771-8478 Telefax



COLUMBUS
OfficePointe at Polaris
470 Olde Worthington Road, Suite 460
Columbus, Ohio 43082
(614) 882-3100
(614) 882-3800 Telefax

Should you or any of the Board members have any questions or wish to further discuss this matter, please do not hesitate to telephone me.

Sincerely yours,

A handwritten signature in cursive script that reads "Lynda L. Kovach / sh".

LYNDA L. KOVACH

LLK: sh

Enclosure

xc: All Board Members (letter only)