

This Instrument Prepared by and
Should be Returned to:
Nicole J. Ferrara, Esquire
Shepard, Filburn & Goodblatt, P.A.
221 Northeast Ivanhoe Boulevard
Suite 205
Orlando, Florida 32804

THIRD AMENDMENT TO THE DECLARATION OF CONDOMINIUM OF
THE ORMOND HERITAGE, A CONDOMINIUM

This Third Amendment to the Declaration of Condominium of The Ormond Heritage, a
Condominium, as amended, is made this 19 day of April, 2000.

WITNESSETH

WHEREAS, the Declaration of Condominium of The Ormond Heritage, a Condominium (hereinafter the "Declaration"), was originally recorded among the Official Records of Volusia County, Florida, in Official Records Book 4045, Page 4588, and was previously amended as recorded in Official Records Book 4065, Page 2390, and Official Records Book 4098, Page 2971, of the Public Records of Volusia County, Florida; and

WHEREAS, the Board of Directors proposed Amendments to Paragraphs 3.6, 4.2, and 7 of the Declaration; and

WHEREAS, the Declaration in Paragraph 13.2 states upon an amendment being proposed, the secretary of the Association shall call a special meeting of the members of the Association to be held not sooner than twenty days nor later than sixty days thereafter for the purpose of considering said amendment, and that such amendment must be approved by the affirmative vote of two-thirds of the total number of Association members entitled to vote; and

WHEREAS, on March 30, 2000, a special meeting of the members was held for the purpose of considering the proposed amendments; and

WHEREAS, the proposed amendments were approved by the affirmative vote of two-thirds of the total number of Association members entitled to vote.

NOW, THEREFORE, the Declaration of Condominium of The Ormond Heritage, a Condominium, as previously amended, is hereby amended as follows (Note: additions are indicated by underline; deletions by ~~strikeout~~):

1. Paragraph 3.6 is amended to read as follows:

(3) Exterior Perimetrical Boundary. The exterior perimetrical boundary of each Unit shall be the vertical plane of each part of the unfinished interior concrete surface of

the exterior walls, extending to an intersection with each part other and extending to an intersection with each part of the upper and lower boundaries. Where a Unit has a balcony; or terrace patio attached, the owner of the Unit shall have exclusive use of that balcony or terrace patio. The Association shall be responsible for major structural maintenance of balconies and terrace patios. Where the balcony or terrace patio walls do not exist to physically intersect with each part of each other and with each part of the upper and lower boundaries, such boundary shall be an imaginary vertical plane located between each part of each physically existing exterior perimetrical boundary, extending to an intersection with each part of the upper boundary and extending to an intersection with each part of the lower boundary.

- (4) **Interior Perimetrical Boundary.** The interior perimetrical boundary of each Unit shall be the vertical or horizontal plane, as the case may be, of each part of the unfinished concrete and/or masonry and/or gypsum surface of certain walls and/or party walls, as shown on Exhibit A, extending to an intersection with each part of each other and extending to an intersection with each part of the upper and lower boundaries. Where part of such walls do not exist to physically intersect with each part of each other and with each part of the lower boundary, as in the case of door openings, such boundary shall be an imaginary vertical plane located between each part of the physically existing interior perimetrical boundary which surrounds each part of any such opening, extending to an intersection with each part of the lower boundary. The area contained within the Interior Perimetrical Boundary determines each unit's fractional ownership interest in Common Elements. Exhibit "B."

2. Paragraph 4.2 is amended to read as follows:

- (b) ~~Swimming Pool. Use of the outdoor swimming pool is reserved for the use of owners of all Units except Unit 114, the owners of which unit do not have the right to the use of the swimming pool.~~ Swimming pool, Pool Deck, Pool Mechanical Room. Use of the outdoor swimming pool and deck is reserved for the owners of all Units except Unit 114, the owners of which do not have the right to use such facilities. .
- (c) ~~Ballroom, Lounge, Exercise Room and Hobby Room. Use of these rooms and — portions of the Common Elements is reserved for the use of unit owners of all units except Unit 114, the owners of, which do not have the right to the use of such facilities.~~ Ballroom, Verandah, Kitchen, Bar/Lounge, Exercise Room, Hobby Room, Card/Aux Meeting Rooms on first and second floors, Pool Lounge including rest rooms, Jacuzzi Room including rest rooms (Pool lounge and Jacuzzi relocated from locations shown on Page A-9), Library, Billiard Room, Second floor restrooms, and garage-level Storage Rooms. Use of these rooms is reserved for the unit owners of all units except 114, the owners of which do not have the right to the use of such

facilities.

(d) Balconies, Terrace Patios. Use of these areas is reserved for the respective owners of the attached Units.

3 .Paragraph 7 shall be amended to read as follows:

7. Assessments. The Board of Directors of the Association shall fix and determine from time to time the sums or sums of money necessary and adequate to provide for the Common Expenses and shall assess the Unit Owners for said sums. ~~The~~ Additional procedures for the making and collection of such assessments shall be as set forth in the By-Laws of the Association. The expenses associated with maintaining the Common Elements shall be budgeted by the calendar year and apportioned among the units on the basis of the ratio of the area contained within the Interior Perimetrical Boundary of each unit to the sum of the areas contained within the Interior Perimetrical Boundaries of all units in accordance with Exhibit "B." The result of this apportionment shall then be divided by 12 to give each owner his or her proportionate monthly share of the expenses for maintaining the Common Elements. The expenses associated with maintaining the Limited Common Elements shall be budgeted by the calendar year and apportioned among the number of unit owners entitled to use them by dividing the total amount of these expenses by the number of unit owners entitled to use them. The result of this calculation shall then be divided by 12 to give each owner his or her proportionate monthly share of the expenses for maintaining the Limited Common Elements. To compute the allocation of forecast annual expenses between Common Elements and Limited Common Elements, all categories used to make up the budget are to be evaluated and the number of dollars attributable to Limited Common Elements segregated and assigned to Limited Common Expenses. If the percentage of the total expenses allocated either to Common Expenses or to Limited Common Expenses changes in either direction by one percent or more from the prior year's budget. the President of the Board of Directors shall appoint a committee to review the allocation. The committee shall be comprised of at least five Unit Owners, and shall include owners of small, medium, and large sized units. The committee shall review the expense allocation judgments and shall present a recommended allocation to the board. All assessments, including special assessments pursuant to Paragraphs 9.2(d)(1) and 9.2(e)(3)(ii) hereof, shall be the personal obligation of each Unit Owner, and each Unit Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all assessments coming due while he is the Unit Owner, including interest thereon, as hereinafter provided, and all costs incident to the collection thereof including attorney's fees at trial or on appeal. In a voluntary conveyance (other than a deed in lieu of foreclosure), the grantee shall be jointly and severally liable with the grantor for his share of all assessments up to the time of conveyance, without prejudice to any right the grantee may have to recover from the

grantor to amounts paid by the grantee.

4. All other terms and conditions of the Declaration, as previously amended, are hereby ratified and confirmed in their entirety.

IN WITNESS WHEREOF, the President and Secretary of The Ormond Heritage Condominium Management Association, Inc., have executed this Third Amendment to the Declaration of Condominium of The Ormond Heritage, a Condominium, on the date first mentioned above.

CERTIFICATION

WE HEREBY CERTIFY that we are the President and Secretary of The Ormond Heritage Condominium Management Association, Inc., and that the foregoing Third Amendment to the original Declaration of Condominium of The Ormond Heritage, a Condominium (hereinafter the "Declaration"), as originally recorded among the Official Records of Volusia County, Florida, in Official Records Book 4045, Page 4588, and as previously amended as recorded in Official Records Book 4065, Page 2390, and Official Records Book 4098, Page 2971, of the Public Records of Volusia County, Florida, was adopted by the affirmative vote of two-thirds of the total number of Association members entitled to vote.

WITNESSES:

The Ormond Heritage Condominium Management Association, Inc.

David W. Butterfield

By: **Ivy Piche, Pres.**

Print Name:

Melvin Crowder

DOSHIE CROWDER

Print Name:

Notary Public - State of Florida

My Commission Expires Jun 29, 2002

Commission # CC755S01

STATE OF FLORIDA
COUNTY OF **Volusia**

The foregoing instrument was acknowledged before me this **19** day of **April, 2000**, by IVY PICHE, as President of The Ormond Heritage Condominium Management Association, Inc., on behalf of the corporation.

Doshie Crowder

Notary Public-State of Florida

Personally Known or Produced Identification: **Personally Known**

WITNESSES:

The Ormond Heritage Condominium Management
Association, Inc.

David W. Butterfield

Print Name:

By: Robert Cascioli

Robert Cascioli, as its Secretary

Melvin Crowder

Print Name:

DOSHIE CROWDER

Notary Public - State of Florida

My Commission Expires Jun 29, 2002
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STATE OF FLORIDA
COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 19 day of April, 2000,
by IVY PICHE, as President of The Ormond Heritage Condominium Management Association,
Inc., on behalf of the corporation.

Doshie Crowder

Notary Public-State of Florida

Personally Known or Produced Identification: Personally Known

This Instrument Prepared by
and Should be Returned to:
Nicole J. Ferrara, Esquire
Shepard, Filburn & Goodblatt, P.A.
221 Northeast Ivanhoe Boulevard
Suite 205
Orlando, Florida 32804

**FIRST AMENDMENT TO THE BY-LAWS OF
THE ORMOND HERITAGE CONDOMINIUM MANAGEMENT ASSOCIATION, INC.**

This First Amendment to the BY-Laws of The Ormond Heritage Condominium Management Association, Inc., is made this 19th, day of April, 2000.

WITNESSETH

WHEREAS, the Declaration of Condominium of The Ormond Heritage, a Condominium, was originally recorded anlong the Official Records of Volusia County, Florida, in Official Records Book 4045, Page 4588, and was previously amended as recorded in Official Records Book 4065, Page 2390, and Official Records Book 4098, Page 2971, and Official Records Book _____, Page _____, of the Public Records of Volusia County, Florida; and

WHEREAS, the Board of Directors proposed Amendments to Paragraphs 7.1, 7.2, 7.5 of the By-Laws; and

WHEREAS, the By-Laws, in Paragraph 9.2, state upon an amendment being proposed, the secretary of the Association shall call a special meeting of the members of the Association to be held not sooner than twenty days nor later than sixty days thereafter for the purpose of considering said amendment, and that such amendment must be approved by the affirmative vote of sixty percent of a total number of Association members entitled to vote; and

WHEREAS, on March 30, 2000, a special meeting of the members was held for the purpose of considering the proposed amendments; and

WHEREAS, the proposed amendments were approved by the affirmative vote of sixty percent of the total number of Association members entitled to vote.

NOW, THEREFORE, the By-Laws of The Ormond Heritage Condominium Management Association, Inc., are hereby amended as follows (Note: additions are indicated by underline; deletions by ~~strikeout~~):

1. Paragraph 7.1 is anlended to read as follows:

7.1 **Budget.**

- (a) **Adoption of Budget by Board of Directors.** In October of each year, ~~The~~ the board of directors shall prepare and adopt a budget for ~~each~~ the coming calendar-fiscal year that shall include the estimated funds, including a reasonable allowance for the contingencies, required to defray the Common Expenses, and which shall include estimated funds for capital replacements or repairs. The funds allocated for reserves for capital replacements shall be collected and maintained as a special fund for capital replacements or repairs. The amounts collected and allocated to the special fund for capital replacements or repairs from time to time shall be maintained in a separate account by the Association. Reserves are common expenses and shall be fully funded unless properly waived or reduced. Such funds shall only be used for the purposes for which they are reserved unless their use for other purposes is approved in advance by a vote of the majority of the voting interest of the Association present at a duly called meeting of the Association. Amounts collected for the special fund for capital replacements or repairs shall be maintained in a bank account separate and apart from other Association funds, and shall be considered contributions to Association capital by members.
- (1) **Notice of Meeting.** A copy of the proposed annual budget and a meeting notice shall be mailed to each Unit Owner not less than ~~thirty~~ fourteen days prior to the meeting at which the budget will be considered, together with a notice of that meeting indicating the time and place of such meeting.

2. Paragraph 7.2 is amended to read as follows:

- 7.2 **Assessments.** Assessments against the Unit Owners for their share of budgeted Common Expenses shall be made for the fiscal year annually in advance on or before the ~~20th day of the 11th~~ last day of the tenth month of the fiscal year preceding the year for which the assessments are made. Such assessments shall be due in equal installments, payable on the first day of each month of the fiscal year for which the assessments are made. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment, and monthly installments on such assessment shall be due upon each installment payment date until changed by an amended assessment. In the event the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the board of directors. Unpaid assessments for the remaining portion of the fiscal year for which an amended assessment is made shall be payable in as many equal installments as there are full months of the fiscal year left as of the date of such amended assessments, each such monthly installment to be paid on the first day of the month, commencing the first day of the next ensuing month. ~~Provided, nothing~~ Nothing herein shall serve to prohibit or prevent the board of directors from imposing a lump sum assessment in case of any immediate need or emergency. Any surplus remaining from the prior year assessment shall be used to reduce the assessment for the forthcoming year.

(a) Calculation of Assessment Allocations for Limited Common Expenses. Each Unit Owner's share of Limited Common Expenses shall be calculated using the "SHARE PER UNIT" column of the following table

<u>UNIT NUMBERS</u>	<u>NO. OF UNITS</u>	<u>SHARES PER UNIT</u>	<u>TOTALS</u>
<u>01, 03, 19, 21</u>	<u>28</u>	<u>.0064516</u>	<u>.180645</u>
<u>02, 20</u>	<u>14</u>	<u>.0064516</u>	<u>.090322</u>
<u>04, 18</u>	<u>16</u>	<u>.0064516</u>	<u>.103226</u>
<u>05, 06, 07, 15, 16, 17</u>	<u>46</u>	<u>.0064516</u>	<u>.296774</u>
<u>08, 14</u>	<u>15</u>	<u>.0064516</u>	<u>.096774</u>
<u>09, 13</u>	<u>14</u>	<u>.0064516</u>	<u>.090322</u>
<u>10, 11, 12</u>	<u>15</u>	<u>.0064516</u>	<u>.096774</u>
<u>PH1</u>	<u>1</u>	<u>.0064516</u>	<u>.006452</u>
<u>PH3, PH4, PH5, PH6</u>	<u>4</u>	<u>.0064516</u>	<u>.025806</u>
<u>PH2, PH7</u>	<u>2</u>	<u>.0064516</u>	<u>.012903</u>
<u>Total</u>	<u>155</u>		<u>1.00000</u>

This assessment allocation method applies to all Limited Common Element Expenses, including reserves and special assessments for Limited Common Expenses.

3. Paragraph 7.5 is amended to read as follows:

7.5 **Fiscal Year**. The fiscal year of the Association shall be from January 15¹ to December 31st, provided, however, that the board of directors is expressly authorized to change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed by the Internal Revenue Code of the United States of America, at such time as the board of directors deems advisable. If the board of directors changes the fiscal year, the board shall also change the schedule for preparation, distribution, and approval of the budget to ensure that an approved budget is in place when a newly elected board of directors is installed.

4. All other terms and conditions of the By-Laws are hereby ratified and confirmed in their entirety.

IN WITNESS WHEREOF, the President and Secretary of The Ormond Heritage Condominium Management Association, Inc., have executed this First Amendment to the By-Laws of The Ormond Heritage Condominium Management Association, Inc., on the date first mentioned above.

CERTIFICATION

WE HEREBY CERTIFY that we are the President and Secretary of The Ormond Heritage Condominium Management Association, Inc., and that the foregoing First Amendment to the By-Laws was adopted by the affirmative vote of sixty percent of the total number of Association members entitled to vote.

WITNESSES:

The Ormond Heritage Condominium Management Association, Inc.

David W. Butterfield

Print Name:

By: **Robert Cascioli**

Robert Cascioli, as its Secretary

Melvin Crowder

Print Name:

DOSHIE CROWDER

Notary Public - State of Florida

My Commission Expires Jun 29, 2002

Commission # CC755S01

STATE OF FLORIDA
COUNTY OF **Volusia**

The foregoing instrument was acknowledged before me this **19** day of **April**, 2000, by IVY PICHE, as President of The Ormond Heritage Condominium Management Association, Inc., on behalf of the corporation.

Doshie Crowder

Notary Public-State of Florida

Personally Known or Produced Identification: **Personally Known**

BOOK: 4543

PAGE: 1421

Diane M. Matousek
Volusia County, Clerk of Court

WITNESSES:

The Ormond Heritage Condominium Management
Association, Inc.

David W. Butterfield

Print Name:

By: **Robert Cascioli**

Robert Cascioli, as its Secretary

2Melvin Crowder

Print Name:

Doshie Crowder

Notary Public-State of Florida

My Commission Expires Jun 29, 2002

Commission # CC755S01

The foregoing instrument was acknowledged before me this **19** day of **April**, 2000,
by Robert Cascioli, as Secretary of The Ormond Heritage Condominium Management
Association, Inc., on behalf of the corporation.

Doshie Crowder

Notary Public-State of Florida

Personally Known or Produced Identification: **Personally Known**

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF VOLUSIA

BEFORE ME, the undersigned authority, personally appeared G. Larry Sims, Esquire, who, being first duly sworn on oath deposes and says as follows:

1. My name is G. Larry Sims, Esquire, I am over the age of eighteen (18) years, and make this affidavit from matters within my own personal knowledge.

2. I am an attorney licensed to practice law in the State of Florida and have been practicing law in Florida since 1972.

3. I was retained by Edwin W. Peck, Sr., developer of The Ormond Heritage Condominium, to draft the Declaration of Condominium for The Ormond Heritage (hereinafter the "Declaration"), as well as the By-Laws and Article of Incorporation for The Ormond Heritage Condominium Management Association, Inc.

4. The Declaration I drafted for the Ormond Heritage, which was recorded in the Public Records of Volusia County in Official Records Book 4045, Page 4588, of the Official Records of Volusia County, Florida, states in Section 3.6(3) as follows:

Where a Unit has a balcony, the balcony shall be deemed part of the Unit.

5. However, the square footage of each balcony is not included in the calculation of the total square footage of each unit as set forth in Exhibit "B II to the Declaration, which demonstrates each unit's share in the common elements of The Ormond Heritage based on the total square footage of each unit.

6. Section 3.6(3) of the Declaration contains a scrivener's error in that it should have

Read “ [w]here a Unit has a balcony, the balcony shall **not** be deemed part of the Unit.” This is consistent with the omission of the square footage of the balconies in the calculation of each unit's total square footage as set forth in Exhibit “B” to the Declaration.

7. It was my intent that the balconies be limited common elements, and not be included in the total square footage of each unit.

8. The Declaration, in Section 4.2, sets forth the following items as limited common elements: parking spaces, swimming pool, ballroom, lounge, exercise room, and hobby room. However, Exhibit "A" to the Declaration indicates the North and South recreation rooms, card/auxiliary meeting room, kitchen/storage room., library, billiard room, rest rooms, pool lounge, kitchen, Jacuzzi/saunas, restrooms, and ballroom verandah are limited elements as well.

9. Section 4.2 contains a scrivener's error in that it omits the items listed in Exhibit "A" to the Declaration in its description of the limited common elements.

10. It was my intent to include the items listed in Exhibit "A" to Section 4.2 of the Declaration.

11. Had I been aware of the scrivener's errors in the Declaration, I would not have recorded the Declaration.

12. This affidavit is made in good faith and not for any improper purpose.

FURTHER AFFIANT SAYETH NAUGHT.

G. Larry Sims, Esquire

G. Larry Sims, Esquire

Book: 4543
Page: 3551
Diane M. Matousek
Volusia County, Clerk of Court

Sworn to and subscribed before me this 20th day of April, 2000, by G. Larry

Sims, Esquire, who is personally known to me or has produced N/A as identification.

Laura F. Buckley

LAURA F. BUCKLEY
Notary Public - State of Florida
My Commission Expires Feb 25, 2003
Commission # CC 804372