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Skagit County Auditor

After Recording Return To:
Joseph McCarthy
Stoel Rives, LLP.
600 University Street, Suite 3600
Seattle, WA 98101

SIXTH AMENDMENT TO CONDOMINIUM DECLARATION
OF
ANACORTES MARINA CONDOMINIUM

Grantor: Anacortes Marina Owners Association
Grantor: Anacortes Marina Owners Association
Legal Description: Anacortes Marina Condominium, According to the
Declaration Thereof, Recording No. 8106010012
Documents Amended: 8106010012
Assessor's Account Nos: P32973; P78003; P78004; P78005; P82190 to P82407;
P82424 to P82502; P82668 to P82749;
P82786 to P82870

THIS SIXTH AMENDMENT TO CONDOMINIUM DECLARATION OF ANACORTES MARINA CONDOMINIUM ("Sixth Amendment") is executed and recorded by the Anacortes Marina Owners Association, a Washington non-profit corporation ("Association") as of the 7th day of November, 2018.

WHEREAS, Anacortes Marine Enterprises, Inc. ("Declarant") recorded the Condominium Declaration for Anacortes Marina Condominium, dated as of May 28, 1981, ("Declaration") in the records of Skagit County under Auditor's File No. 8106010012, together with a Survey Map and Plans in Volume 13 of Condominiums, at pages 32 through 38, inclusive, under Auditor's File No. 8106010014;

WHEREAS, the Declaration was previously amended by (i) that certain Amendment to Condominium Declaration for Anacortes Marina Condominium, recorded under Auditor's File 94679606.4 0009813- 000011

No. 8106260020, (ii) that certain Second Amendment to Condominium Declaration for Anacortes Marina Condominium, recorded under Auditor's File No. 8108120086, (iii) that certain Third Amendment to Condominium Declaration for Anacortes Marina Condominium, recorded under Auditor's File No. 8306160023, (iv) that certain Fourth Amendment to Condominium Declaration for Anacortes Marina Condominium, recorded under Auditor's File No. 8307190014, and (v) that certain Fifth Amendment to Condominium Declaration for Anacortes Marina Condominium, recorded under Auditor's File No. 201606170112 and re-recorded under 201705250013;

WHEREAS, the Association has recommended to the owners of the apartments in the Condominium that the Declaration be amended to update and clarify certain provisions in the Declaration;

WHEREAS, pursuant to Section 22.1 of the Declaration, after notice to all of the apartment owners entitled to vote thereon duly given, not less than seventy-five percent (75%) of the apartment owners have consented in writing to amend the Declaration as set forth herein; and

WHEREAS, by executing this Sixth Amendment, the President and the Secretary of the Anacortes Marina Owners Association certify that this Sixth Amendment to the Condominium Declaration for Anacortes Marina Condominium has been duly adopted by the necessary percentage of apartment owners;

NOW, THEREFORE, The Declaration is amended as follows.

1. Defined Terms. All of the capitalized terms used in this Sixth Amendment and not defined herein shall have the meanings given to them in the Declaration.

2. Amendment of Article 13. Article 13 of the Declaration is amended to state, in its entirety as follows:

13.1 Insurance Coverage

The Board shall, to the extent deemed reasonably available and affordable by the board, obtain and maintain at all times as a common expense such policies of insurance and bonds required to provide:

13.1.1 Property insurance written on a "special form" of coverage in an amount as near as practicable to the full insurable replacement value at the time the insurance is purchased (without deduction for depreciation, but less any other deductibles or exclusions which the Board may find reasonable after consultation with its insurance consultant and if deemed necessary, endorsements for contingent liability from operation of building laws, demolition costs, and increased cost of construction, with such deductions or modifications thereof as the Board may find reasonable after consultation with its insurance consultant) of (i) all common areas and limited common

areas, including without limitation easements, (ii) all up-land buildings, all portions of any bulkheads, docks, piers or floats, including without limitation pilings, columns, roofs and all structural components, whether located in the common areas or within an apartment or moorage slip, (iii) to the extent not described in the foregoing clauses, all machinery and equipment and fixtures in or attached to the common areas, (iv) all improvements, alterations and betterments to the common areas, and (v) all other personal property of the Association. The property insurance need not cover any apartment or moorage slip (except to the extent that any portion of the bulkheads, docks, piers or floats is located therein), any watercraft, or any personal property of an apartment owner or any tenant, lessee, sublessee, licensee or renter (collectively for purposes of this Article 13, "renter"), any fixed or floating breakwaters. The property insurance need not include terrorism or earthquake coverage. The Board may obtain such other fire and casualty insurance as the Board shall determine to give substantially equal or greater protection insuring the owners and their mortgagees, as their interests may appear. The policy shall name the Board as trustee for the benefit of the owners and their mortgagees as their interest may appear, with authority to adjust any loss and receive any payment of any insurance proceeds for the benefit of the owners and their mortgagees as their interests may appear. All insurance shall be obtained from an insurance carrier rated A- (and rated as in Class XI, or better, financial condition) by the A.M. Best's Rating Services or equivalent rating service and licensed to do business in the State of Washington.

13.1.2 Commercial general liability insurance insuring the Board, the Association, the owners, Declarant and the managing agent against any liability incident to the operation, ownership, maintenance or use of the common areas and limited common areas (including but not limited to marina operator's, and garage keeper's liability and such other risks as are customarily covered in similar marina projects) under which the liability shall be an amount determined by the Board after consultation with its insurance consultants, but not less than One Million Dollars (\$1,000,000.00) covering all claims for bodily injury and/or property damage arising out of a single occurrence; provided that any such policy limits shall be reviewed at least annually by the Board and increased in its discretion. Such insurance shall contain appropriate provisions or endorsements precluding the insurer from denying the claim of an owner because of the negligent acts of the Association, Declarant or another owner. The liability insurance need not insure against any liability of an apartment owner or renter incident to anything other than the ownership, maintenance or use of the common areas and limited common areas.

13.1.3 Workmen's compensation insurance, longshoremen's and harbor workers' compensation and employer's liability insurance to the extent required by applicable laws.

13.1.4 Such bonds as may from time to time be required to the State of Washington on the DNR lease.

13.1.5 Insurance against loss of personal property of the Association by fire, theft and other losses with such deductible provisions as the Board deems advisable.

13.1.6 Such other insurance or bonds as the Board or its insurance consultant may from time to time deem advisable.

13.2 Alternative Insurance

If available, in lieu of the coverage provided in subparagraphs 13.1.1 and 13.1.2 the Board may, at its option, substitute any special multi-purpose condominium insurance policy which, from time to time, may be approved for use in the State of Washington having said limits or provisions, provided any such policy has the limits and coverage provided in subparagraph 13.1 and may be applicable to a condominium marina.

13.3 Owner's Insurance

13.3.1 Each owner and renter may obtain and maintain additional property insurance covering the apartment or moorage slip, any watercraft in the apartment or moorage slip, and any personal property of the owner or renter, and additional liability insurance. Each owner and renter acknowledges that the association's insurance will not cover the apartment or moorage slip as defined in the Condominium Declaration and survey, any vessel moored therein, or any personal property of any owner or renter, including insurance to cover any obligation to pay or reimburse the Association for any damage caused to persons or property in the Condominium, any deductible under the Association's property insurance or for any portion of loss not covered by the Association's property insurance. No owner or renter shall be entitled to maintain insurance coverage in any manner which would decrease the amount which the Board or any trustee for the Board upon behalf of all of the owners will realize under any insurance policy which the Board may have in force on the Condominium at any particular time. Any owner or renter shall be required, upon request of the Association, to file a copy of such individual policy or policies with the Board. Notwithstanding the foregoing or any other provision of the Declaration, the neither the Board nor the Association shall have any duty to any apartment owner, any renter, any guest, any vessel owner or any other person whatsoever to monitor or evaluate compliance with this section or the existence, non-existence, quality or extent of any apartment owner's or renter's or vessel owner's insurance. All insurance obtained by an owner or renter shall include waiver by the insurer of any right of subrogation against the Board or the Association.

13.3.2 Notwithstanding the language of Section 13.3.1, each unit owner and renter shall carry in full force and effect, as to any watercraft that is located within the Condominium, with insurance companies authorized to do business in the state of

Washington, marine insurance policies providing coverage for (i) general liability, (ii) legal liability, (iii) collision and allision, and (iv) pollution liability, arising from use of the apartment or the boat, with limits of at least \$300,000 per occurrence, or such higher amount as may be required by law or by the Board. The insurance policies shall cover damage done to the apartment, common areas and limited common areas, and any other boats or equipment and shall satisfy the requirements for vessel insurance under Chapter 88.26 RCW. The insurance policies shall name the association as an additional insured and shall include a waiver of subrogation in favor of the Board and Association. The Association shall have the right, but not the obligation, to prevent the use of an apartment, and to force the removal from an apartment, of any boat until evidence of insurance satisfactory to the association has been provided to the association. Each apartment owner and renter shall, upon request of the Association, provide copies of its insurance policies to the Association.

13.4 Insurance Proceeds

Insurance proceeds for damage or destruction by fire or other casualty to any part of the Condominium property shall be paid to the Board upon behalf of the Association which shall segregate such proceeds from other funds of the Association for use and payment as provided in paragraph 14. The Association acting through its Board shall have the authority to settle and compromise any claim under insurance obtained by the Association and the insurer may accept a release and discharge of liability made by the Board on behalf of the named insureds under the policy. Subject to the provisions of paragraph 14, the proceeds must be disbursed first for the repair or restoration of the damaged property, and apartment owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Condominium is terminated. Each owner appoints the Association, or any insurance trustee or successor trustee designated by the Association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including the collection and appropriate disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability, the execution of all documents and the performance of all other acts necessary to accomplish such purposes.

13.5 Additional Policy Provisions

To the extent deemed practicable and desirable by the Board, after consultation with the Association's insurance broker, agent or carrier, the insurance policy or policies required under paragraph 13.1 shall:

13.5.1 Provide that the Association is the named insured and that each apartment owner is an insured person under the policy with respect to liability arising out of the owner's interest in the common areas or its membership in the Association

13.5.2 Provide that if, at the time of the loss under the property policy, there is other insurance in the name of any apartment owner or renter covering the same risk covered by the policy, the Association's property policy provides primary insurance and that the liability of the insurer thereunder shall not be affected by and the insurer shall not claim any right of set-off, counterclaim, apportionment, proration, or contribution by reason of any other property insurance obtained by or for any apartment and/or moorage slip owner;

13.5.3 Provide that coverage shall not be prejudiced by (a) any act or omission of any Unit Owner unless acting within the scope of the Owner's authority on behalf of the Association; or (b) failure of the Association to comply with any warranty or condition with regard to any portion of the premises over which the Association has no control;

13.5.4 Provide that such policy may not be cancelled (whether or not requested by the Board) except by the insurer giving at least ten (10) days' prior written notice thereof to the Board and every other person in interest who shall have requested such notice of the insurer;

13.5.5 Contain a waiver by the insurer of any right of subrogation against the Board, the Association, and any apartment and/or moorage slip owner;

13.5.6 Provide that no act or omission by any apartment owner will, unless acting within the scope of the apartment owner's authority on behalf of the Association, void the policy or be a condition of recovery under the policy; and

13.5.7 Contain a standard mortgagee clause which shall:

(a) Provide that any reference to a mortgagee in such policy shall mean and include all holders of mortgages of any apartment and/or moorage slip or apartment and/or moorage slip lease or sublease in their respective order and preference, whether or not named therein;

(b) Provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Board or apartment and/or moorage slip owners or any persons whose rights or obligations are derived, directly or indirectly, by or through either of them;

(c) Waive any provision invalidating such mortgage clause by reason of the failure of any mortgagee to notify the insurer of any hazardous use or vacancy, any requirement that the mortgagee pay any premium thereon, and any contribution clause; and

(d) Provide that without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable to the Board or the insurance trustee.

13.6 Responsibility for Deductibles and Uninsured Amounts. Notwithstanding any other provision of this Declaration, including Article 13, and in addition to any rights that the Association may otherwise have against such apartment owner or renter at law or equity, or under this Declaration or the Act, but except to the extent that a lack of insurance results from the negligence or breach of a duty to insure of the Board, where damage to the Condominium results from a negligent or intentional action or omission by an apartment owner or by its renter or invitees, or from the failure of, or failure to maintain, any portion of the Condominium which that owner or renter is responsible to maintain in good working order and condition, or from the operation or maintenance of a vessel, that apartment owner or renter shall be responsible for paying any costs, expenses or damages that are within the limits of any applicable insurance deductible of any policy of insurance that the Association is required to maintain, or that are otherwise uninsured under the Association's insurance.

3. Amendment of Section 23.3.1. Section 23.3.1 of the Declaration is amended to state in its entirety as follows:

23.3.1 Delivery of Notice. Any notice permitted or required to be delivered under the provisions of this Declaration or the Bylaws may be delivered in any form and manner allowed pursuant to the Washington Nonprofit Corporation Act, as it may be amended, and the effectiveness of such notice shall be as set forth in such act. Notice to the owner or owners of an apartment and/or moorage slip shall be sufficient if mailed to the Condominium if no other mailing address has been given to the Board by any of the persons entitled to any notice. The mailing address may be changed from time to time by notice in writing to the Board. Notice to be given to the Board may be given to Declarant until the Association and Board have been constituted and thereafter shall be given to the President or Secretary of the Board.

4. Effective Date. This Amendment shall be effective as of the date it is recorded.

5. Partial Invalidity. In the event any provision of this Sixth Amendment is determined to be unenforceable by any court of competent jurisdiction, the same shall not affect or impair any of the remaining provisions hereof.

6. Legally Binding. The terms of this Sixth Amendment shall be legally binding and effective on all Owners and all Moorage Slips without the need to re-execute or re-record any Moorage Slip Assignments, any Assignments of Moorage Slip Assignments, or any other recorded deeds, subleases, assignments, security agreements or other instrument or documents (of any form whatsoever) that purport to convey any right, title or interest in or to any Moorage Slips in the Condominium

7. No Implied Modifications. Except as expressly set forth in this Sixth Amendment, all terms and conditions of the Declaration remain unchanged and in full force and effect.

