

A202300091770

11/02/2023 07:05 AM

**FAITH KIMBROUGH
MARION COUNTY IN RECORDER**

FEE: \$ 35.00

PAGES: 7

By: ER

**Cross-Reference: Instrument No. 1988-85866
Instrument No. 1988-104657
Instrument No. 1992-30933
Instrument No. 1994-20274
Instrument No. 2009-0006227**

**FOURTH AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF STEEPLECHASE WEST**

This Fourth Amendment to the Declaration of Covenants, Conditions and Restrictions of Steeplechase West ("Third Amendment") was made as of the date below.

W I T N E S S E T H:

WHEREAS, the Steeplechase West Subdivision ("Steeplechase West") located in Marion County, Indiana was established by a certain "Declaration of Covenants, Conditions and Restrictions of Steeplechase West" ("Declaration") which was recorded October 13, 1988, as **Instrument No. 1988-85866** in the Office of the Recorder of Marion County, Indiana; and

WHEREAS, the First Amendment to the Declaration was recorded March 17, 1992, as **Instrument No. 1992-30933** in the Office of the Recorder of Marion County, Indiana ("First Amendment"); and

WHEREAS, the Second Amendment to the Declaration was recorded February 4, 1994, as **Instrument No. 1994-20274** in the Office of the Recorder of Marion County, Indiana ("Second Amendment"); and

WHEREAS, the Third Amendment to the Declaration was recorded January 22, 2009, as **Instrument No. 2009-0006227** in the Office of the Recorder of Marion County, Indiana ("Third Amendment"); and

WHEREAS, the original developer of Steeplechase West caused to be incorporated under the laws of the State of Indiana a nonprofit corporation under the name Steeplechase West Homeowners Association, Inc. ("Association"); and

WHEREAS, the original Declaration, the First Amendment, the Second Amendment, and the Third Amendment are hereafter collectively referred to as the “Declaration as Amended”; and

WHEREAS, the Declaration as Amended provides that it may be amended at any time by a recorded instrument approved and signed by at least two-thirds (2/3) of all the then Owners; and

WHEREAS, this Fourth Amendment, as set forth below, has been approved by a vote of at least two-thirds (2/3) of all the Owners, in person or by proxy, at the Annual Meeting held on October 25, 2023.

NOW, THEREFORE, the Declaration of Covenants, Conditions and Restrictions of Steeplechase West is hereby amended, and will be referred to as the “Fourth Amendment”, as described below:

Article XII of the Declaration shall be DELETED in its entirety and REPLACED with the following:

ARTICLE XII
Leasing Restrictions

Section 12.1. General Purposes of Leasing Restrictions. The Association’s members recognize that an Owner-occupant is both psychologically and financially invested in a home to a greater extent than a renter, and thus Owner-occupants maintain their property better than renters generally. The Association’s members wish to ensure that the residents within Steeplechase West share the same proprietary interest in and respect of the Lots and Common Areas. They also want to encourage residents to not only maintain property values but also to improve them and recognize that Owner occupants have more incentive to do so compared to non-Owner occupants. Thus, the provisions of this Article XII shall be applicable. Except as allowed by this Article XII, residents of a Lot can only consist of the Owner(s) thereof and members of their immediate family.

Section 12.2. “Rental” and “Lease” Defined. This Article XII is intended to apply to all forms of non-Owner occupancies, except as specifically provided herein. For the purposes of this Article XII, “rented” or “leased,” as used interchangeably herein, or any derivative thereof,

singular or plural, shall mean leased or rented or occupied, whether or not for compensation of any kind, by anyone other than an Owner of the Lot together with the members of his or her household. For a Lot to "Owner occupied," the titled Owner of the Lot must reside in the Lot as his or her primary place of residence (i.e., at least nine (9) months in a calendar year). However, the Rental Cap provided in Article XII, Section 12.3 and the Waiting Period in Article XII, Section 12.10 will not apply to any situation where a Lot is occupied by members of the Owner's immediate family as their primary place of residence. For purposes of this Article XII, "immediate family" shall only include the Owner's parents, children, stepparents, stepchildren, or spouse/significant other. This kind of "family" occupancy will not be considered a "rental" in the context of the Rental Cap and Waiting Period; provided, however, the Owner and occupants will still be subject to the remaining provisions of and requirements of this Article XII.

Any Lot owner by a Trustee or by a Fiduciary of an Estate shall not be deemed to be a rental, provided that the resident is the Trustee, the Fiduciary of an Estate, or a beneficiary of the Trust or Estate, and further provided that no rent, payment, service or other consideration is paid or provided to the Owner or any other party or entity in exchange for or in connection with that occupancy. The Trustee or Fiduciary shall submit a certificate to the Association indicating who is authorized to reside on the Lot.

Any occupancy of a Lot that is owned by a corporation, business or other entity (including, without limitation, a partnership, corporation, nonprofit corporation, limited liability company, business or other entity) will be deemed a rental for the purposes of this Article XII.

Section 12.3. Limits on the Number of Rented Lots ("Rental Cap"). No more than four (4) of the Lots in Steeplechase West may be rented at any given time, except as may be otherwise provided in this Article XII (the "Rental Cap"). If at any time such number of Lots are rented, an Owner who wants to rent his or her Lot which is not already rented shall be placed on a waiting list. When an existing tenant moves out, the Owner of that Lot shall immediately notify the Board of Directors or Managing Agent of such fact. Additionally, when an existing tenant moves out, the Owner must re-rent the Lot within sixty (60) days of the tenant vacating the Lot. If the Owner does not re-rent the Lot within sixty (60) days of the tenant moving out, the Owner will go to the back of the waiting list and that Lot cannot be re-rented until all prior Owners on the waiting list, if any, have had a chance to rent their Lots. Prior to the execution of any lease, the Owner must notify the Association as to his or her intent to lease the Lot.

Section 12.4. Effective Date of Restrictions. Within thirty (30) days of the date on which this Amendment is recorded in the Marion County Recorder's Office (the "Recording Date"), the Association will provide written notice to the Owner. The "Rental Cap" and the two-year "Waiting Period" set forth in Section 12.10 shall not apply to the Owner of any Lot which, as of the Recording Date, is rented by its Owner, so long as the Owner-landlord mails or otherwise delivers to the Managing Agent (at the address shown in the notice of the Recording Date), within sixty (60) days after the Recording Date, a copy of each executed lease of such Owner-landlord's Lot(s) which is in effect as of the Recording Date. The Owners of such Lots shall not be subject to the Rental Cap or the Waiting Period but shall be subject to the remaining

provisions of this Article XII. However, when the Owners of record of any of the pre-Recording Date rented Lots sell, transfer or convey such Lot(s) to another Owner, inclusive of any transfer of title to a related or alternatively held entity owned by the same Owner, after the Recording Date, such Lot(s) shall immediately become subject to the Rental Cap and Waiting Period. The failure of any Owner of a rented Lot to deliver a copy of such pre-Recording Date lease within said sixty (60) day period shall result in said Owner's Lot being subject the Rental Cap and Waiting Period (from and after the date or expiration of such pre-Recording Date lease, without opportunity for renewal). Any Lot falling under the exception of this Section 12.4 shall, nevertheless, be counted as one of the four (4) Lots that may be rented.

Section 12.5. Hardship Exceptions and Waiver. If any Owner wishes to rent his or her Lot, but the Rental Cap has been reached, the Owner may request the Board of Directors to waive the "Rental Cap" if the Owner establishes to the Board's satisfaction that the "Rental Cap" will cause undue hardship. If the Board approves in writing of the Owner's request, the Owner may rent said Lot, subject to any further conditions or limitations imposed by the Board in its direction, but only if the Owner satisfies all other requirements of Article XII. Such decision is at the sole discretion of the Board. An undue hardship is defined as:

- i. Temporary relocation of the residence of an Owner to a point outside of a fifty (50) mile radius of the perimeter of Steeplechase West made necessary due to a change of employment of at least one (1) of such Owners;
- ii. Necessary relocation of the residence of an Owner due to mental or physical infirmity or disability or at least one (1) such Owners; or
- iii. The Owner is a reservist in the United States Armed Forces who is called to temporary active duty or is active-duty personnel in the United States Armed Forces, and is temporarily deployed more than fifty (50) miles from the Lot.

If an Owner wants an exception based upon hardship circumstances other than those specifically defined above, the Owner must submit a written request describing the hardship. The Board may approve or deny such requests as it deems appropriate on a case-by-case basis.

Section 12.6. General Lease Conditions.

- i. All leases, including renewals, must be in writing, and no lease shall be entered into for a term of less than one (1) year. Owners cannot lease, rent or operate their Lot on a hotel, transient or short-term rental basis, which is defined as a term of less than one (1) year. This short-term rental prohibition includes, without limitation, the use of a short-term rental platform through which unaffiliated parties offer to rent a home or portion thereof to an occupant and collects consideration for the rental from the occupant.
- ii. A copy of each executed lease by an Owner which identifies the tenant (but which

may have the rental amount deleted) shall be provided to the Board or the Managing Agent by the Owner within fifteen (15) days after execution. Additionally, the Owner must provide to the Board or the Managing Agent the names and contact information of all tenants who will live in the home; and

- iii. No portion of any Lot other than the entire Lot shall be leased or rented for any period. No subleasing is permitted.
- iv. All leases must be made expressly subject and subordinate in all respects to the terms of the Declaration, By-Laws, Articles of Incorporation, and rules and regulations, to the same extent as if the tenant were an Owner and member of the Association. The Owner shall supply copies of such legal documents to the tenants prior to the effective date of the lease and shall provide to the Board or Managing Agent proof that copies were provided to the tenants at such time as a copy of the executed lease is provided to the Board or the Managing Agent.
- v. All leases shall provide for direct action by the Association and/or any Owner against the tenant with or without joinder of the Owner of such Lot. If such provision is not in the lease, it will be deemed to be in such lease.
- vi. The Owner cannot be delinquent in the payment of any assessments or other charges to the Association. If at any time an Owner becomes delinquent, the Board may revoke said Owner's right to lease the Owner's Lot, even if during the term of a lease.

Section 12.7. Owner is Still Liable. No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his or her responsibility to the Association for compliance with the provision of the Declaration, the Article of Incorporation, the By-Laws, and any rules and regulations promulgated by the Board, or from the Owner's liability to the Association for payments of assessments or any other charges.

Section 12.8. Violations. Any lease or attempted lease of a Lot in violation of the provisions of this Article XII shall be voidable at the election of the Association's Board of Directors or any other Owner, except that neither party to such lease may assert this provision of Article XII to avoid its obligations thereunder. In the event of a violation, the Board on behalf of the Association, or any Owner, shall have the right to exercise any and all available remedies at law or equity, including, without limitation, bringing an action or injunctive relief to remove the tenant(s). In the event of a violation of this Article XII, the Association shall be entitled to recover all legal fees and costs of enforcement, including, but not limited to, attorney fees and court costs, from the violating Owner.

Section 12.9. Burden of Proof. If at any time a Lot is not occupied by one of the Owners thereof, there shall be a presumption that the Lot is being leased and subject to the provisions of this Article XII, and the Owners shall have the burden of proving to the satisfaction of the

Board that the occupancy is not in violation of this Article XII, including, but not limited to, providing a written statement of the nature and circumstances of the occupancy pursuant to a rent-to-buy contract or similar arrangement or pursuant to any option to purchase by anyone other than an Owner shall be deemed to be a lease subject to the restrictions of this Article XII. Any land contract for sale must be recorded with the Marion County Recorder to be deemed valid. If such land contract, or validly-executed memorandum thereof, is not recorded at the time of execution, it will be considered a rental agreement for the purposes of this Article XII.

Section 12.10. Two-Year Waiting Period (the "Waiting Period"). In addition to all other provisions of this Article XII, for a period of at least two (2) years after an Owner's acquisition of title to a Lot, the Lot must be "Owner Occupied" meaning that said owner must own and reside in the Lot as his or her primary place of residence (i.e., at least nine (9) months in a calendar year) before he or she can lease such Lot. After such time, said Lot will be eligible to be leased if all other conditions of this Article XII are satisfied and the Rental Cap has not already been reached, and provided that the Owner is not delinquent in the payment of any assessments or other charges to the Association. The Board may, at its sole discretion, grant exceptions to the Waiting Period upon an Owner's showing of undue hardship, as set forth in Article XII, Section 12.5 herein.

Article XII of the Declaration as Amended is hereby amended in its entirety and replaced in its entirety with the following, consistent with the original and historical practices of the Association:

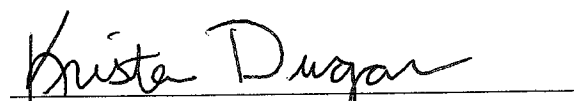
All other provisions of the Declaration as Amended shall remain unchanged.

Acceptance and Ratification. The acceptance of a deed of conveyance or the act of occupancy of any one Lot shall constitute a ratification of this Fourth Amendment, together with the Declaration, and all such provisions shall be covenants running with the land and shall bind any person having at any time having any interest or estate in a Lot or the Steeplechase West subdivision as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease.

Certification. The undersigned officers of the Association hereby represent and certify that all requirements for and conditions precedent to this First Amendment of the Declaration have been fulfilled and satisfied.

Executed this 1st day of November, 2023.

Steeplechase West Homeowners Association, Inc., by:



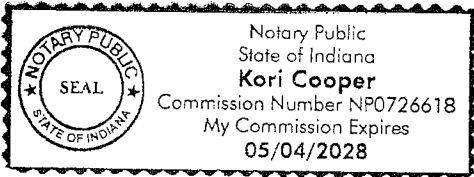
Kristen Dugan, President

Attest:

Alice Kaufman
Alice Kaufman, Secretary

STATE OF INDIANA)
) SS:
COUNTY OF Marion)

Before me, a notary public, in and for said County and State, personally appeared Kristen Dugan and Alice Kaufman, the President and Secretary, respectively, of Steeplechase West Homeowners Association, Inc., an Indiana nonprofit corporation, who acknowledged execution of the within and foregoing for and on behalf of said corporation and its members and who, being duly sworn, stated that the representations made herein are true. Witness my hand and notarial seal this 1 day of November, 2023.



Kori Cooper
Notary Public - Signature

Kori Cooper
Printed

My Commission Expires:

05/04/2028

Residence County: Hamilton

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law." /s/ Jacob A. Lawrence.

This instrument prepared by and should be returned to: Jacob A. Lawrence, Eads, Murray, & Pugh, P.C., 9515 E. 59th St., Suite B, Indianapolis, IN 46216. (317) 536-2565.
Jacob@IndianaHOALaw.com