

Prepared by and Return to:  
Mya M. Hatchette, Esq. *clo Kim*  
Winderweedle, Haines, Ward  
& Woodman, P.A.  
329 Park Avenue, North, 2<sup>nd</sup> Floor  
Winter Park, Florida 32789



**AMENDMENT TO AMENDMENT RESTATEMENT, AND CONSOLIDATION OF  
RESTRICTIVE COVENANTS**

Effective as of the 15 day of January, 2012, the **BAY HILL PROPERTY OWNERS ASSOCIATION, INC.**, a Florida not-for-profit corporation (the "Association") by this instrument hereby amends that certain AMENDMENT, RESTATEMENT, AND CONSOLIDATION OF RESTRICTIVE COVENANTS recorded in Official Records Book 4213, beginning at Page 1844, Public Records of Orange County, Florida, as amended, including but not limited to Amendment recorded in Official Records Book 4350, Page 127, Public Records of Orange County, Florida, Amendment recorded in Official Records Book 4955, Page 2561, Public Records of Orange County, Florida, Amendment recorded in Official Records Book 4999, Page 2337, Public Records of Orange County, Florida, Amendment recorded in Official Records Book 5993, Page 3751, Public Records of Orange County, Florida and Amendment recorded in Official Records Book 9483, Page 1604, Public Records of Orange County, Florida (collectively, the "Restatement"). The Restatement is incorporated herein by reference. This Amendment shall relate to and affect all properties affected by and described in the Restatement, and also those properties subjected to the Restatement by joinder or the like, including without limitation the properties described in the Joinders recorded respectively at Official Records Book 4248, beginning at Page 489, and Official Records Book 4282, beginning at Page 2115, Public Records of Orange County, Florida. The terms used in this Amendment will have the same meaning as was given or intended in the Restatement, unless the context requires otherwise or this Amendment expressly provides a different definition. To the extent the Restatement conflicts or is inconsistent with this Amendment, this Amendment shall control, and the conflicting or inconsistent provisions of the Restatement will be deemed amended hereby.

**BACKGROUND**

Paragraph 28 of the Restatement authorizes the Association unilaterally to modify, amend, or revoke the provisions of the Restatement, subject to limited restrictions. The Association has amended Paragraph 18 of the Restatement, and has added Paragraph H. to the Definitions of the Restatement. This Amendment is being executed and recorded to evidence the Association's modification of these provisions.

The Association hereby amends the Restatement as follows:

1. The following Definition "H" is hereby added thereto:

"H. "Common Area" shall mean all real property, except roads or any lands dedicated to the public, (including the improvements thereon) which may in the future be owned by the Association for the common use and enjoyment of the Title Holders."

2. Paragraph 18 of the Restatement is hereby deleted in its entirety and the following paragraphs, 18A, 18B, 18C, 18D, 18E, 18F, 18G and 18I, are substituted in the place thereof:

**18A. Creation of the Lien and Personal Obligation of Assessments.** The Association, through its Board of Directors, shall have the power and authority to establish and collect, and each Title Holder by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association (1) annual assessments or charges, (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided and (3) transfer fees incurred in conjunction with the transfer of title and/or sale of any Lot.

The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due, enforceable by suit at law. All liens created under this Restatement may be foreclosed in equity in the same manner as provided for the foreclosure of mortgages upon real property.

**18B. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively for the purpose of insuring the high standards of maintenance and operation of the Common Areas reserved or conveyed by the Restatement for the common use of all Title Holders, as well as any other common improvements which now exist or may be constructed, and in general to promote the desired character of the Property. Such purposes and uses of assessments shall include, but not be limited to, payment of all costs to the Association of all taxes, insurance, repair, replacement and maintenance of the Common Areas and any drainage facilities on the Property.

**18C. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement in any Common Area which is maintained or will be maintained by the Association according to the provisions hereof, including fixtures and personal property related thereto.

**18D. Rate of Assessment.** The annual and special assessments may be collected on a monthly, quarterly or semi-annual basis, as the Board of Directors of the Association shall determine, and may be adjusted from year to year by the Association, as the needs of the Property

may, in the judgment of the Association, require and shall be apportioned among the several Lots within the Property on a per Lot per year basis.

18E. Liability for Assessments. An owner of a lot, regardless of how his or her title to property has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, is liable for all assessments that come due while he or she is the parcel owner. The parcel owner's liability for assessments may not be avoided by waiver or suspension of the use or enjoyment of any common area or by abandonment of the parcel upon which the assessments are made. Moreover, a lot owner is jointly and severally liable with the previous lot owner for all unpaid assessments that came due up to the time of transfer of title.

18F. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid when due shall bear interest from the due date at the rate of one per cent (1%) per month on the unpaid balance or at the maximum rate allowed by law, whichever is higher. If any assessment payment is not paid within thirty (30) days from the due date, the Association may accelerate the entire annual assessment and may thereafter bring an action at law against the Title Holder personally obligated to pay the same and in any event shall file in the public records a Notice of Lien for Delinquent Assessments, and may foreclose the lien against the property to which the assessment relates. Such liens shall run with the land and bind subsequent owners with or without actual notice, except in relation to mortgages as provided in Paragraph 18E of this Amendment. Interest, costs and reasonable attorneys fees for such action or foreclosure shall be secured by such lien and may be recovered in such litigation by the Association. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of any Common Area or abandonment of his Lot.

18G. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage held by an institutional lender. Sale or transfer of any Lot shall not affect the assessment lien. However, the liability of a first mortgagee or its successor or assignees who acquire title to a lot by foreclosure or by deed in lieu of foreclosure for the unpaid assessments that became due before the mortgagee's acquisition of title is subject to the provisions as set forth in Chapter 720.3085, Florida Statutes. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

18H. Homeowners Associations. Nothing contained herein shall be construed to prevent owners of Lots from forming homeowners associations under the laws of the State of Florida as corporations not-for-profit to further promote and enhance the value of said Lots within the community, or maintaining and administering any common areas within a particular development in Dr. Phillips Community, or from charging, collecting or disbursing assessments for said purposes; nor shall anything contained herein be construed to prevent any grantee from recording any easements, covenants, conditions, and restrictions for the purpose of further promoting and enhancing the value, desirability and attractiveness of any property subject to the provisions hereof; Provided however, that in the event of any conflict between the provisions hereof and those of any easements, covenants, conditions or restrictions recorded subsequently, the provisions of this Restatement shall control.

18I. Transfer Fee. Any Title Holder intending to make a transfer or sale of a Lot or any interest in a Lot shall give written notice to the Association of such intention. The Title Holder shall furnish the Association as part of the notice, (i) the name and address of the intended Grantee and (ii) a copy of the executed deed. Upon completion of any transfer of title or sale of a Lot, including but not limited to, a transfer due to mortgage foreclosure proceedings or a deed in lieu of foreclosure, a Transfer Fee in the amount of \$500.00 shall be due and payable within thirty (30) days to the Association.

Any Transfer Fee not paid when due shall bear interest from the due date at the rate of one per cent (1%) per month on the unpaid balance or at the maximum rate allowed by law, whichever is higher. If any Transfer Fee is not paid within thirty (30) days from the due date, the Association may accelerate the entire amount and may thereafter bring an action at law against the Title Holder personally obligated to pay the same and in any event shall file in the public records a Notice of Lien, and may foreclose the lien against the property to which the Transfer Fee relates. Such liens shall run with the land and bind subsequent owners with or without actual notice, except in relation to mortgages as provided in Paragraph 18E of this Amendment. Interest, costs and reasonable attorneys fees for such action or foreclosure shall be secured by such lien and may be recovered in such litigation by the Association. No owner may waive or otherwise escape liability for the Transfer Fee provided for herein by abandonment of his Lot.

3. Except as amended herein, the Restatement remains unmodified.

IN WITNESS WHEREOF, this Amendment has been duly adopted by the Association and executed by its President and Secretary of this 28 day of September, 2012.

Signed, sealed and delivered  
in the presence of:

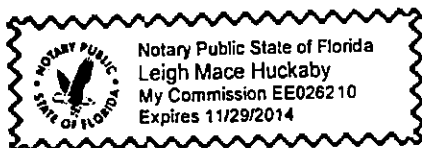
BAY HILL PROPERTY OWNERS  
ASSOCIATION, INC., a Florida not for  
profit corporation

Carole D. Leoby  
Witness

By: [Signature]  
Jim Aude, President

Leigh Mace Huckaby  
Witness

ATTEST: [Signature]  
Dan Roberts  
Secretary



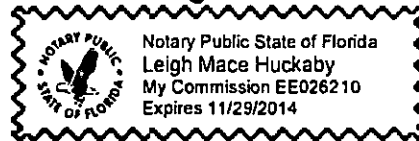
Address: 13350 W. Colonial Drive,  
Ste 330,  
Winter Garden, FL 34787

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was executed and acknowledged before me this 28 day of September, 2012 by JIM AUDIE, as President of BAY HILL PROPERTY OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, on behalf of the corporation. He is personally known to me or who has produced \_\_\_\_\_ as identification.

My Commission Expires: 11/29/2014

Leigh Mace Huckaby  
Notary Public  
Printed Name Leigh Mace Huckaby



STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was executed and acknowledged before me this 28 day of September, 2012 by Dan Roberts as Secretary of BAY HILL PROPERTY OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, on behalf of the corporation. He is personally known to me or who has produced State of FL Drivers License as identification.

My Commission Expires: 11/29/2014

Leigh Mace Huckaby  
Notary Public  
Printed Name Leigh Mace Huckaby

