

MARKUP #1 ->

Directors shall determine what charges, if any, shall be made for lost keys to the Pool Area. Any special assessment not paid with thirty (30) days after the due date shall bear interest from the due date at the highest rate permitted by Florida law. The Association may bring legal action against the owner personally obligated to pay said assessments and all interest thereon, or it may foreclose a lien against the Lot in the same manner as a mortgage. And shall be entitled to recover all costs and reasonable attorney’ fees incurred. No owner may waive or otherwise escape liability for the assessments provided for herein.

28. The lien of the assessments provided for herein shall be subordinate to the lien of any previously recorded mortgage. Sale or transfer of any lot shall not affect the assessment lien. No sale or transfer of a Lot shall relieve the then owner of the Lot from liability for any assessments theretofore or thereafter becoming due, nor shall such sale relieve the Lot from being burdened by a lien securing said assessments and other lien able amounts pursuant to this Declaration.

29. Maintenance of the deck and the Build-Up Roof System as well as carpeting and railing on open decks on the second floor of the Roost models shall be the responsibility of the homeowner or each such Roost model residence. Briar Patch Homeowners’ Association, Inc. shall not be responsible for maintenance or replacement of the Built-Up Roof, deck, carpeting and railing. All roofers employed for the maintenance or replacement of the Built-Up Roof must be licensed, bonded, and approved by the Homeowners’ Association for your protection.

30. Any tenant or guest of a lot owner shall be bound by these restrictions. Owners of each rental property are responsible for any of their renter’s infractions. Owners must have prospective renters fill out 55+ certificate and read the Deed Restrictions before they sign the form stating that they have read and understood the Deed Restrictions. Owners must furnish Briar Patch a copy of the renter’s agreement to briarpatchnpr@yahoo.com before the renters move in, and subsequently with the renewal of each lease agreement.

31. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

ISSUE #1

32. These Subdivision Covenants and Restrictions shall run with and bind the land for a term of twenty (20) years from the date this instrument is recorded after which time they shall be automatically extended for successive period of ten (10) years each. These Covenants and Restrictions may be amended by the affirmative vote of a majority of the members of Briar Patch Homeowners’ Association, Inc. who are present in person or by proxy at a membership meeting of the association, and who are voting on such amendments. A Certificate of Amendment executed by the President or Secretary of the

MARKUP #1 · MRTA 30-YEAR COVENANT EXPIRATION RISK

BOARD & COUNSEL REVIEW

Sec. 32 (p. 7): Declaration duration/automatic-renewal clause relies on private renewal language without addressing Florida Marketable Record Title Act (MRTA, Ch. 712) 30-year statutory extinguishment.

Statutory / Legal Reference: Fla. Stat. Ch. 712 (§§ 712.05 - 712.06), § 720.303(2)(e) & § 720.3032

Statutory Comparison: Under Florida’s Marketable Record Title Act (Ch. 712), residential HOA covenants expire by operation of law 30 years after their root of title despite private 50- or 90-year terms or automatic 10-year renewal clauses, unless the Board timely records a Summary Notice of Preservation (§ 712.05(2)(b)) or Statement of Marketable Title Action (§ 720.3032). Furthermore, § 720.303(2)(e) requires the Board to consider the desirability of preserving the covenants from MRTA extinguishment at the first board meeting after the annual meeting each year.

CURRENT WORDING IN DOCUMENT:

These Subdivision Covenants and Restrictions shall run with and bind the land for a term of twenty (20) years from the date this instrument is recorded after which time they shall be automatically extended for successive period of ten (10) years each. These

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Notwithstanding the stated term or automatic renewal periods above, pursuant to Fla. Stat. Chapter 712 and §§ 720.303(2)(e) and 720.3032, the Board of Directors shall annually consider preservation of these covenants at the first board meeting (excluding the organizational meeting) following each annual meeting of the members, and shall record a Summary Notice of Preservation or Statement of Marketable Title Action in the County Public Records prior to the expiration of thirty (30) years from the root of title.