

Section 9. "Common Areas" shall mean and refer to that part of FOX CHASE WEST Property now or hereafter actually used and designated for the use and benefit of the residents in FOX CHASE WEST Project; consisting of Recreational Areas, Common Driveways, Parking Areas and green areas.

Section 10. "Common Expenses" shall mean the actual and estimated costs of maintenance, management, operation, repair and replacement of the Common Areas, including, without limitation: the costs of any and all utility charges for the Common Areas; costs of management and administration of the Association (including, without limitation, compensation paid by the Association to managers, accountants, attorneys and other employees); the cost of all gardening and landscaping of the Common Areas; the cost of maintenance, operation, repair and replacement of equipment furnishing lighting for the Common Areas; the costs of fire, casualty and liability insurance, workmen's compensation insurance, and other insurance covering the Common Areas; the cost of bonding persons who handle monies of the Association; taxes paid by the Association (including real property taxes for the Common Areas); amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Areas, or portions thereof; and the costs of any other item or items incurred by the Association for any reason whatsoever in connection with the Common Areas or for the benefit of the Owners.

Section 11. "Declarant" shall mean and refer to F & R BUILDERS, INC., and its successors and assigns to whom F & R BUILDERS, INC. assigns in writing the rights of the Declarant.

Section 12. "Declaration" shall mean this instrument as it may be amended from time to time.

Section 13. "FOX CHASE WEST Project" shall mean that certain tract of land legally described on Exhibit "A" attached hereto.

Section 14. "Condominium Unit" shall mean a completely constructed unit in a condominium which is designated and intended for use and occupancy as a residence and which is subject to assessments under this Declaration or any Supplemental Declaration made by the Declarant. Said term includes any interest in land, improvements and other property appurtenant to the Unit.

Section 15. "Condominium Property" shall mean and include that portion or portions of the FOX CHASE WEST Project that is subjected to Condominium Ownership in accordance with the Florida Statute, Chapter 718 (The Condominium Act).

Section 16. "Management Company." shall mean the person, firm or corporation appointed by the Association hereunder as its agent and delegated certain duties, powers or functions of the Association.

Section 17. "Member" shall mean any person or entity holding a membership in the Association as provided herein.

Section 18. "Mortgage" shall mean any mortgage covering a Condominium Unit. The term "Mortgagee" shall mean the holder of such mortgage.

MARKUP #1 ->

MARKUP #1 · OUTDATED STATUTE LOCK

BOARD & COUNSEL REVIEW

Sec. 14. (p. 2): Declaration references Florida Statutes without express Kaufman language ("as amended from time to time"), risking unconstitutional impairment of contract challenges upon statutory changes.

Statutory / Legal Reference: Kaufman v. Shere, 347 So. 2d 627 (Fla. 3d DCA 1977); Cohn v. Grand Condo. Ass'n, 62 So. 3d 1120 (Fla. 2011)

Statutory Comparison: Under Florida Supreme Court precedent (Cohn), legislative amendments that impair vested contract rights cannot be applied retroactively to an existing community unless the Declaration contains express language adopting the statute "as amended from time to time" (the Kaufman doctrine).

CURRENT WORDING IN DOCUMENT:  
"Condominium Unit" shall mean a completely constructed unit in a condominium which intended for use and occupancy as a residence and which is subject to assessments under this Declaration or any Supplemental Declaration made by the Declarant. includes any interest in land, improvements and other property appurtenant to the Unit. "Condominium Property" shall mean and that portion or portions of the FOX CHASE WEST subjected to Condominium Ownership in Florida Statute, Chapter 718 (The Condominium person,

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):  
In accordance with Kaufman v. Shere, amend the governing law clause to read: "...governed by Chapter 718 [or 720], Florida Statutes, as the same exists on the date hereof and as the same may be amended from time to time."

ISSUE #1