

213

4

**THIRD AMENDMENT TO CONDOMINIUM DECLARATION FOR THE GLEN  
@ HORIZON DRIVE CONDOMINIUM**

**BOOK 3488 PAGE 367**

This Third Amendment to Condominium Declaration for the Glen @ Horizon Drive is made this 17<sup>th</sup> day of September, 2003, by the Glen @ Horizon Drive II, LLC, a Colorado limited liability company (the "Declarant") and The Glen @ Horizon Drive Condominium Association ("Association").

RECITALS

A. The Declarant made and caused to be recorded in Book 2626 at Page 614 of the records of Mesa County Colorado, that certain Condominium Declaration for the Glen @ Horizon Drive Condominium ("Declaration") establishing a residential condominium project ("Project").

B. The Declarant heretofore made and caused to be recorded in Book 2640 at page 726 and Book 3096 at Page 814 of the records of Mesa County Colorado, the First and Second Corrective Amendments to the Declaration correcting certain errors found in the Declaration.

C. Pursuant to the provisions of Paragraph 19.5 of the Declaration, the Declarant reserved the right to make certain corrections modifications or deletions to the Declaration and Supplements thereto as needed to correct any non-substantive errors or inconsistencies in the Declaration.

D. Declarant has found certain additional non-substantive errors and inconsistencies in the Declaration and desires by this Third Amendment to correct the same.

E. The Declarant heretofore conveyed to the Association the area shown on the Condominium Map recorded on Reception No. 1917735 in Book 2 at Page 184 - 191 of the records of Mesa County, Colorado as Tract A. Tract A is discussed in detail in Paragraph 9.6 of the Declaration.

F. The Glen @ Horizon Drive Condominium is governed by the provisions of the Colorado Common Interest Ownership Act found at 38-33.3-101, *et. seq.*, Colorado Revised Statutes ("Act").

G. Section 38-33.3-103 of the Act defines "common elements" as:

"(5)(A) in a condominium or cooperative, all portions of the condominium or cooperative other than the units."

H. The Declaration defines "Common Elements" as:

" "Common Elements" means all of the Project except all Units."

I. Based upon the foregoing, in order to qualify technically to be a condominium under the Act as intended, all portions of the Project other than the individual Units are required to be a part of the Common Elements of the Project. Paragraph 9.6 of the Declaration specifically provides that Tract A shall be the property of the Association and not a General Common Element.

J. Because of the intention of the Declarant at all times and the understanding of all parties purchasing Units in the Glen @ Horizon Drive Condominium that the Project be a condominium under the Act, the Declarant has requested the Association to reconvey Tract A to the Declarant and the Association has done so; and, by this Declaration, the Declarant intends to convey, dedicate and declare said Tract A to be a part of the General Common Elements of the Glen @ Horizon Drive Condominium for all purposes.

K. At least 67% of the votes allocated to the Units, including 67% of those Units not owned by the Declarant have agreed to this Amendment as required by the Act, specifically 38-33.3-312, C.R.S.

L. The Association, at its annual meeting of Members in 2002 authorized certain additional amendments to the Declaration

NOW, THEREFORE, the Declarant and the Association hereby make the following Third Amendment to the Condominium Declaration for the Glen @ Horizon Drive Condominium:

1. Declarant deletes the sentence contained in Paragraph 9.6 of the Declaration which states:

“The same shall be property of the Association and not a General Common Element.” and

2. Declarant replaces the same with the following:

“The same shall be a part of General Common Elements and the Declarant hereby conveys, dedicates and declares Tract A as such.”

3. The third word “shall” in the next to last sentence of Article X, Section 10.1 is changed to “may.” Such sentence shall read “Such assessments may be fixed, established and collected from time to time in a manner provided in this Article.

4. Article IX, Section 9.1 of the Declaration is deleted and replaced with the following:

9.1 The Common Elements: The Association shall be responsible for the

maintenance and repair of the General Common Elements and the exterior Limited Common Elements. The cost of maintenance and repair shall be borne as provided in Article X.

The Association shall have the right to grant easements for utility purposes over, upon, under or through any portion of the Common Elements, and is hereby irrevocably appointed as attorney in fact for each Owner for such purpose.

5. A new Article X, Section 10.9 is added to the Declaration as follows:

“Regular Association dues may not be increased from one year to the next by more than 10%, any increase shall only be by the approval of members owning a majority of the allocated interest by vote taken at the annual meeting of Members of the Association, or at a special meeting of the members called for the purpose of discussing any such increase.”

6. Article X, Section 11.3 of the Declaration is deleted and replaced with the following:

“11.3 Maintenance of Interiors and Limited Common Elements. Each Owner shall keep the interior of such Owner’s Unit, including without limitation, interior, walls, windows, glass, ceilings, floors, permanent fixtures, patios and appurtenance thereto, and interior Limited Common Elements appurtenant to such Unit, in a clean, sanitary and attractive condition, and in a good state of repair free from the accumulation of trash or debris and deterioration. Exterior maintenance and/or repair of the Common Elements shall be the responsibility of and performed by the Association as a common expense allocated equally among the owners of the Units within the building within or upon which such maintenance and/or repair is performed.”

This Third Amendment is made pursuant to the authority contained in Section 19.5 of Article XIX and Article XVI of the Declaration of the Declaration. In all respects not amended hereby the Declaration recorded in Book 2626 at Page 614 of the records of Mesa County Colorado not heretofore corrected, and all Corrective Amendments and Supplements thereto are hereby ratified and confirmed.

THE GLEN HORIZON DRIVE  
CONDOMINIUM ASSOCIATION

By: William Engelman  
William Engelman, President

THE GLEN @ HORIZON DRIVE II, LLC.

By CITY MOUNTAIN GRAND JUNCTION,  
LTD., LLLP., a Colorado limited liability limited  
partnership, Sole Manager

By ROCKY MOUNTAIN CONSTRUCTION  
GRAND JUNCTION, INC., a Colorado  
corporation, its General Partner

By: William Engelman  
William Engelman, President

STATE OF COLORADO

} ss.

COUNTY OF PITKIN

The foregoing instrument was acknowledged before me this \_\_\_\_ day of September, 2003, by William Engelman, as President of Rocky Mountain Construction Grand Junction, Inc., General Partner of City Mountain Grand Junction, Ltd., LLLP, Sole Manager of The Glen @ Horizon Drive II, LLC and as President of The Glen @ Horizon Drive Condominium Association.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: 11/27/2006



Beth Brandon  
Notary Public