

# BROWN HOMESTEAD CONDOMINIUM ASSOC., INC.

c/o Full Circle HOA Management  
560 Mountain Village Blvd., 102A, Mountain Village, CO 81435  
Telephone (970) 369-1428 Facsimile (970) 369-1429  
Mail@FullCircleHOA.com

December 29, 2009

Dear Brown Homestead Owner:

Please find enclosed a proposed Fifth Amendment to the association's declaration and a mail ballot. **THESE CHANGES TO THE DECLARATION WILL HELP PROTECT BROWN HOMESTEAD FROM LOSING PAST DUE ASSESSMENTS IN THE EVENT OF A FORECLOSURE. So your timely vote is extremely important.**

Your Board of Directors recommends your approval on this amendment. It does the following things:

- Creates liability for a new owner for past-due assessments.
- Creates a 5% transfer tax payable by at closing, which is EXEMPT if dues are paid in full as of the time of closing.
- Waiver of the Homestead Exemption, which is important to protect the association's lien in the event of a foreclosure.

Please help the association by reviewing the enclosed materials and voting today while it is fresh in your mind. The ballot is due back by February 5, 2010, but please do not wait until the last minute. You can mail it back, fax it, email it or deliver it by hand.

Thank you and please feel free to contact us or Full Circle should you have any questions.

Regards,  
Brown Homestead Board of Directors

BROWN HOMESTEAD CONDOMINIUMS HOMEOWNERS ASSOCIATION  
MAIL BALLOT

To: Members of the Brown Homestead Condominiums Homeowners Association, Inc.  
From: Board of Directors  
Date: December 29, 2009

This ballot provides Brown Homestead owners the opportunity to approve the enclosed Fifth Amendment to its Declaration. The Board recommends your support. **This ballot represents your vote.** In order for your vote to count, you must submit your ballot by **February 5, 2010**, at 11:59 p.m. MST.

**PROPOSED ACTION:** Shall the Brown Homestead Condominium Homeowners Association, Inc., adopt the enclosed FIFTH AMENDMENT TO DECLARATION OF CONDOMINIUM OWNERSHIP AND OF EASEMENTS, RESTRICTIONS AND COVENANTS FOR THE BROWN HOMESTEAD CONDOMINIUM? (Pursuant to C.R.S. § 38-33.3-217, this action will pass by an affirmative vote of sixty-seven percent (67%) of the total votes of the association.)

YES, I vote for the action \_\_\_\_\_ (your initials)

NO, I vote against the action \_\_\_\_\_ (your initials)

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\_\_\_\_\_  
SIGN

\_\_\_\_\_  
YOUR UNIT

\_\_\_\_\_  
PRINT

\_\_\_\_\_  
DATE

ONCE SUBMITTED, YOUR BALLOT CANNOT BE REVOKED

Please return a signed copy of this ballot by mail, by hand, by fax or by email to:

Brown Homestead Condominiums Homeowners Association, Inc.  
c/o Full Circle HOA Management  
560 Mountain Village Blvd., 102B  
Mountain Village, CO 81435  
Telephone: (970) 369-1428  
Facsimile: (970) 369-1429  
Email: Mail@FullCircleHOA.com

**AFTER RECORDING RETURN TO:**

Law Office of Diane Wolfson  
560 Mountain Village Blvd., 102A  
Mountain Village, CO 81435

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**FIFTH AMENDMENT TO DECLARATION OF CONDOMINIUM OWNERSHIP  
AND OF EASEMENTS, RESTRICTIONS AND COVENANTS FOR THE  
BROWN HOMESTEAD CONDOMINIUM**

WHEREAS, Brown Homestead Condominium is a condominium community ("**Association**") originally created by the following instruments recorded in the Office of the Clerk and Recorder of San Miguel County, Colorado: "DECLARATION OF CONDOMINIUM OWNERSHIP AND OF EASEMENTS, RESTRICTIONS, AND COVENANTS FOR THE BROWN HOMESTEAD CONDOMINIUM" recorded on February 18, 1977, in Book 363, at Pages 277-323 ("**Original Declaration**"), and map titled "Brown Homestead Condominium A & B," recorded November 9, 1979, in Plat Book 1 at Pages 184-186 ("**Original Plat**").

WHEREAS, the Original Declaration as amended, supplemented, and/or restated by additional instruments recorded in the Office of the Clerk and Recorder of San Miguel County, Colorado, are collectively referred to herein as the "**Declaration.**"

WHEREAS, the Original Plat has been amended and supplemented by additional maps recorded in the Office of the Clerk and Recorder of San Miguel County, Colorado, and all of which are collectively referred to herein as the "**Plat**":

WHEREAS, the Owners desire to amend the Declaration as set forth in this FIFTH AMENDMENT TO DECLARATION OF CONDOMINIUM OWNERSHIP AND OF EASEMENTS, RESTRICTIONS AND COVENANTS FOR THE BROWN HOMESTEAD CONDOMINIUM ("**Fifth Amendment**").

NOW THEREFORE, this Fifth Amendment amends the Declaration as follows.

Section 19, Remedies, is here by deleted in its entirety.

A new paragraph 27 is added as follows:

27. **Liability for Obligations** Every Unit Owner, by acceptance of a deed or instrument of conveyance of an ownership interest in a Unit, whether or not expressed in any deed or instrument of conveyance, shall be deemed to covenant and agree for such Owner and such Owner's heirs, personal representatives, successors and assigns, that:
- A) All Owners shall have personal liability to the association for the obligations created by this declaration, including monetary obligations, that arise out of their ownership of a Unit.
  - B) All obligations created by this declaration, including monetary obligations, with respect to a particular Unit, run with the land and burden that particular Unit, and shall continue to burden that particular Unit notwithstanding a change in Unit ownership. Such obligations shall not be affected or extinguished by a change in Owners.

C) Every current Owner of a particular Unit shall have joint and several liability with the former Owner of that Unit for all amounts owed to the association of every kind and nature (including but not limited to regular assessments, special assessments, water and sewer charges, interest, fines, costs of collection, transfer fees, and attorneys fees) that are unpaid as of the date of the grant or conveyance from the former Unit Owner to the current Unit Owner. This provision applies regardless of the type of conveyance and includes a purchase and sale, a deed-in-lieu of foreclosure, or the sale or redemption of the Unit in a foreclosure by the San Miguel County trustee or sheriff. These provisions are intended to be without prejudice to a Unit Owner's right to recover any such amounts from the former Owner.

A new paragraph 28 is added as follows:

28. **Transfer Fee** There is hereby imposed on all Transfers of Units (as defined below), a transfer fee of five percent (5%) of the Consideration (as defined below), unless the Transfer is subject to an Exemption as set forth below. Such transfer fee is due and payable to the association on the date of the Transfer. Unpaid transfer fees for a particular Unit are a personal obligation of that Unit's Owner and are an association lien on that Unit.
- I. A **"Transfer"** is defined as any transfer of an ownership interest in a Unit, whether by deed or any other writing or instrument, and includes:
    - A. A public trustee confirmation deed, sheriff's deed, or deed-in-lieu of foreclosure.
    - B. The conveyance of fifty percent (50%) or more in a corporation, limited liability company, partnership, limited partnership, joint venture, trust or any other association or entity that owns a Unit.
  - II. **"Consideration"** is defined as the actual amount paid in consideration of the Transfer.
  - III. The transfer fee shall not apply to a Transfer to any of the following **"Exemptions"** so long as a written exemption request is submitted to the Board prior to the date of Transfer and the Board certifies in writing its approval of the exemption:
    - A. On the date of Transfer, all amounts owed to the association of every kind and nature (including but not limited to regular assessments, special assessments, water/sewer charges, interest, fines, costs of collection, and attorneys fees) are paid in full; or
    - B. The Consideration is zero; or
    - C. The Transfer is to a spouse, or to natural or adopted children; or
    - D. The Transfer is pursuant to a decree of separation or divorce.

A new paragraph 29 is added as follows:

- 29. **Homestead Waiver** Every Unit Owner, by acceptance of a deed or instrument of conveyance of an ownership interest in a Unit, whether or not expressed in any deed or instrument of conveyance, shall be deemed to covenant and agree that such Unit Owner waives the homestead exemption set forth in C.R.S. § 38-41-201, as same may be amended or supplemented, as to all liens of the association against such Unit, and all such liens of the association against such Unit shall be superior Owner's claim to a homestead exemption.

The foregoing amendments to the Declaration shall be effective upon recording. All other provisions of the Declaration and Plat shall remain unchanged and in full force and effect.

### CERTIFICATION OF ADOPTION

The undersigned hereby certify that the Association has complied with C.R.S. § 38-33.3-217 (1)(a), effective January 1, 2006, by obtaining the written consent of the owners representing an aggregate ownership interest of at least sixty-seven percent (67%) of the Common Elements.

**Brown Homestead Condominium Association, Inc.,  
a Colorado nonprofit corporation,**

By: \_\_\_\_\_  
President

By: \_\_\_\_\_  
Secretary

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.

The foregoing was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ as president of Brown Homestead Condominium Association, Inc., a Colorado nonprofit corporation. Witness my hand and official seal.

My commission expires: \_\_\_\_\_ Notary Public \_\_\_\_\_

STATE OF COLORADO )  
COUNTY OF \_\_\_\_\_ ) ss.

The foregoing was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ as Secretary of Brown Homestead Condominium Association, Inc., a Colorado nonprofit corporation. Witness my hand and official seal.

My commission expires: \_\_\_\_\_ Notary Public \_\_\_\_\_