

Instrument Book Page
201200835392 OR 1916 491

201200835392
Filed for Record in
GEAUGA COUNTY OHIO
SHARON C GINGERICH, RECORDER
01-11-2012 At 10:21 am.
AMEND 128.00
OR Book 1916 Page 491 - 501

THIS DOCUMENT IS BEING RE-RECORDED TO INCLUDE EXHIBIT A

Instrument 201200835022 OR Book Page 1915 2437

Instrument 201200835392 OR Book Page 1916 492

201200835022
Filed for Record in
GEAUGA COUNTY OHIO
SHARON C GINGERICH, RECORDER
01-03-2012 At 02:14 PM
AMEND 104.00
OR Book 1915 Page 2437 - 2444

Amendment

**AUBURN LAKES CONDOMINIUM-
WOODS AT AUBURN LAKES CONDOMINIUM
LIMITED COST SHARING AGREEMENT**

This Auburn Lakes Condominium-Woods at Auburn Lakes Condominium Limited Cost Sharing Agreement ("Agreement") is made this 16 day of December, 2011, by and between Auburn Lakes Condominium Association ("Auburn Lakes") whose mailing address is c/o: Marcia Szell, Manager, One Clubside Drive, Chagrin Falls, Ohio 44023, and electronic mail address is: szellal@roadrunner.com; and The Woods at Auburn Lakes Association, Inc. ("Woods at Auburn") whose mailing address is c/o: Janice Mansour, Manager, 23945 Mercantile Road, Beachwood, Ohio 44122, and electronic mail address is: jmansour@carlylemanagement.com (collectively, the parties are referred to as the "Associations").

Whereas, Auburn Lakes is an Ohio condominium association that was created and formed for the purpose of administering and maintaining the Auburn Lakes Condominium property pursuant to the Declaration of Condominium for Auburn Lakes Condominium that was filed at Volume 697, page 395, et seq. of the Geauga County Records on May 2, 1983;

Whereas, Woods at Auburn Lakes is an Ohio condominium association that was created and formed for the purpose of administering and maintaining the Woods at Auburn Lakes Condominium property pursuant to the Declaration of Condominium Ownership for Woods at Auburn Lakes Condominium that was filed at Volume 1008, page 622, et seq. of the Geauga County Records on February 27, 1995;

R.R. 12-21-11
TJC
12-16

Whereas, as set forth in the legal descriptions for the respective condominium properties, both the Auburn Lakes and Woods at Auburn Lakes condominium properties include a portion of the private drive known as Pointe Breeze Drive from, approximately, its intersection with the walking path to the west of Fairway View east to its intersection with Long Drive, as more specifically shown on the attached Exhibit "A," which is two pages in length (the portion of Pointe Breeze Drive that is shown on Exhibit "A" is referred to as the "Road");

Whereas, the Road provides ingress and egress access to condominium units within both condominium properties; and,

Whereas, in light of the shared use and ownership of the Road, the Associations have agreed to share in the cost to re-pave the Road now and in the future as well as other considerations, all as provided for in this Agreement.

Now therefore, the Associations hereby covenant and agree as follows:

1. The representations, recitals, statements, exhibits, and terms set forth or referenced above are incorporated into and made a part of this Agreement.

2. The Associations each agree that the Road presently needs to be repaved, that Auburn Lakes and Woods at Auburn will each pay fifty percent (50%) of the base cost of the repaving work for the portion of Pointe Breeze Drive that the Associations share ownership of as shown on Exhibit A, and that Auburn Lakes will enter into a contract for the needed repaving work in 2011. The repaving work that is to be shared equally by the parties does not include repairs to the base of the Road, such as the repair of pot holes. Auburn Lakes will pay for the cost of any needed repairs to the north half of the Road (meaning from the centerline of the Road to the northern edge of the Road) and Woods of Auburn Lakes will pay for the cost of any needed repairs to the south half of the Road. The Associations will equally share (i.e. 50-50) in the cost of any repair that stretches across both sides of the Road. Woods at Auburn hereby grants Auburn Lakes, including Auburn Lakes' selected contractor, a non-exclusive easement to perform such repaving work, as well as for any future repaving work that may be performed in accordance with this Agreement, on the portion of the Road that is part of the Woods at Auburn Lakes Condominium property.

P.R. 12-21-11
T.C.
2-16

3. Upon completion of the repaving work, the contractor retained to perform the repaving work will submit an invoice to each Association for their respective share of the work in accordance with Paragraph 2 above, which will be approximately \$43,344.00. Woods at Auburn shall make payment directly to and in the contractor's name for Woods at Auburn's share of the repaving work within seven (7) business days of the receipt of the invoice.

4. After the completion of the work described in Paragraph 2 above, for any future repaving of the Road due to ordinary wear and tear, the Associations agree to share such expense on the same fifty percent-fifty percent basis as set forth above, subject to the following:

- a. Auburn Lakes must give Woods at Auburn at least ninety (90) days prior written notice of Auburn Lakes' plan to repave the Road, which notice must include a description of the scope of work to be performed and a cost estimate.
- b. Within thirty (30) days of receiving the written notice from Auburn Lakes, Woods at Auburn must either consent or object to the proposed repaving work in writing. If Woods at Auburn does not respond in writing within thirty (30) days, its consent shall be deemed given.
- c. If Woods at Auburn objects, representatives from each Association must meet to discuss any objections, issues, questions, or concerns with the proposed repaving work. If after such meeting, Woods at Auburn continues to object to the work, it must do so for good reason that is supported by a written report from an engineer or an independent professional asphalt consultant. If Auburn Lakes disagrees with the stated reasons for the objection and the Associations cannot resolve the issue through direct discussions, the Associations agree to submit the matter to binding arbitration for a determination under the rules of the American Arbitration Association then in effect for Ohio as to whether the objection is reasonable. If the arbitration results in a favorable ruling for Woods at Auburn, Auburn Lakes may still proceed with the repaving project but only at its sole cost and expense. If the arbitration results in a favorable ruling for Auburn Lakes, Auburn Lakes may proceed with the work as a shared expense of the two Associations.

R.R. 12-21-11
T.F.C.
12-16

- d. Woods at Auburn shall pay for its required share of any future repaving work in the same manner as provided for in Paragraph 3 above.
- e. In the event Woods at Auburn Lakes determines at any time that repaving of the Road is needed before such a determination is made by Auburn Lakes, Woods at Auburn Lakes shall have the right and authority to proceed in the same manner as provided for in Paragraphs 4a, 4b, 4c, and 4d above, with, in such case, all references to Woods at Auburn Lakes meaning and referring to Auburn Lakes, and all references to Auburn Lakes meaning and referring to Woods at Auburn Lakes. If Woods at Auburn Lakes proceeds with such repaving in accordance with this Agreement, then in such case, Auburn Lakes hereby grants Woods at Auburn Lakes, including Woods at Auburn Lakes' selected contractor, a non-exclusive easement to perform such repaving work on the portion of the Road that is part of the Auburn Lakes Condominium property.
- f. If repaving of the Road, in whole or in part, is needed as the result of negligence or intentional act of either Association, including any contractor hired by either Association, such Association is responsible for repaving the Road as needed at its sole cost and expense.

5. This Agreement pertains only to the repaving of the Road. The Associations, however, may from time to time, as each so voluntarily agrees and decides, cooperate in and coordinate with each other for any other maintenance, repair, or replacement of the Road with the responsibility and the cost for such work to be apportioned on a fifty-fifty basis between the Associations.

6. As additional consideration for the easement, covenants, and agreements set forth in this Agreement, the Associations additionally agree as follows:

- a. Auburn Lakes will permit Woods at Auburn to use the Auburn Lakes Clubhouse for three Woods at Auburn special meetings, an annual meeting, and four (quarterly) Board meetings each year, weekdays only, at no charge, and subject to availability, which will be determined on a "first request, first serve" basis, with requests to use the Clubhouse submitted in writing to the Auburn Lakes' property manager.

RR 12-21-11
T.J.C.
12-16

- b. Auburn Lakes will remove all restrictive walking path signs within thirty (30) days of the date of this Agreement.
- c. In consideration of Paragraph 6a and 6b above, Woods at Auburn Lakes will continue to snow plow Pointe Breeze Drive in its entirety.

7. The Associations hereby waive, relinquish, and release any and all claims that either had or may have against the other for any Road maintenance, repair, replacement, or repaving costs and expenses that either party may have incurred prior to the date of this Agreement.

8. Auburn Lakes is not liable to Woods at Auburn or its unit owners, residents, licenses, occupants, and/or guests, for any injury, loss, or damage related to, caused by, or arising from any repaving of the Road unless Auburn Lakes is found to have been grossly negligent or reckless in its hiring of the contractor to perform such work. Woods at Auburn Lakes is not liable to Auburn Lakes or its unit owners, residents, licenses, occupants, and/or guests, for any injury, loss, or damage related to, caused by, or arising from any repaving of the Road unless Woods at Auburn Lakes is found to have been grossly negligent or reckless in its hiring of the contractor to perform such work.

9. The easement, covenants, agreements, terms, conditions, rights, interests, and obligations set forth in this Agreement shall be construed according to the fair meaning of the language used and not strictly construed in favor of or against either party.

10. All notices, requests, and other communications required by this Agreement shall be in writing and shall be sent by regular U.S. mail, postage prepaid, telecopy, hand delivery, or electronic mail, and addressed to the same addresses of the parties listed previously in this Agreement or to such other address, including electronic email address, as either Association may by similar notice designate for such purpose in the future.

11. Any payment required under this Agreement that is not made within fifteen (15) days of the date due, shall result in a late charge of \$25.00 per month until paid in full. If collection action, including legal action, is taken to pursue the collection of any amount that is past due under the terms of this Agreement, the delinquent Association shall pay, in addition to the principal

P.R. 12-21-11
T.Q.C.
12-16

Instrument 201200835022 OR Book Page 1915 2442

amount owed and any late fees, all costs, fees, and expenses, including reasonable attorneys' fees and court costs, incurred by the other Association. For any other dispute that arises out of or relates to this Agreement, including any action to enforce any provision or requirement of this Agreement, that cannot be settled through direct discussions, the Associations shall submit the dispute to mediation under the rules of the American Arbitration Association then in effect for Ohio, before resorting to further legal proceedings. In any court action to resolve a dispute, the prevailing Association in such action shall be entitled to the reimbursement of all cost, fees, and expenses, including reasonable attorneys' fees and court costs, from the other Association.

12. For the convenience of the parties, this Agreement has been executed in multiple counterparts that are in all respects identical and each of which shall be deemed to be complete in itself so that any one may be introduced in evidence or used for any other purpose without the production of the other counterparts.

This Agreement is dated as of the date first written above.

Remainder of page intentionally left blank.

*RR 12-21-11
- J.C.
12-16*

THE WOODS AT AUBURN LAKES ASSOCIATION, INC.

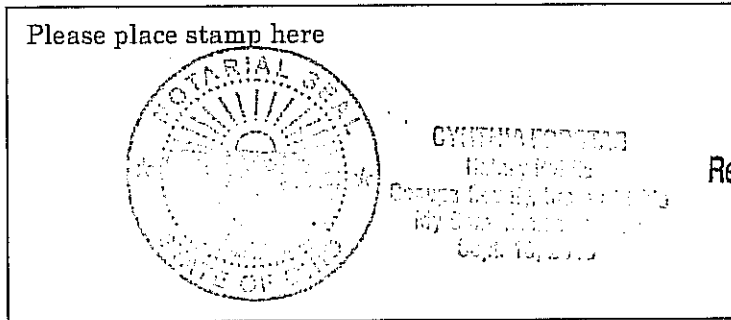
By: Thomas Corcoran
Thomas Corcoran, its President

STATE OF OHIO)
COUNTY OF GEauga) SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named The Woods at Auburn Lakes Association, Inc., by its President, Thomas Corcoran, who acknowledged that he did sign the foregoing instrument, and that the same is the free act and deed of said corporation and the free act and deed of him personally and as such officer.

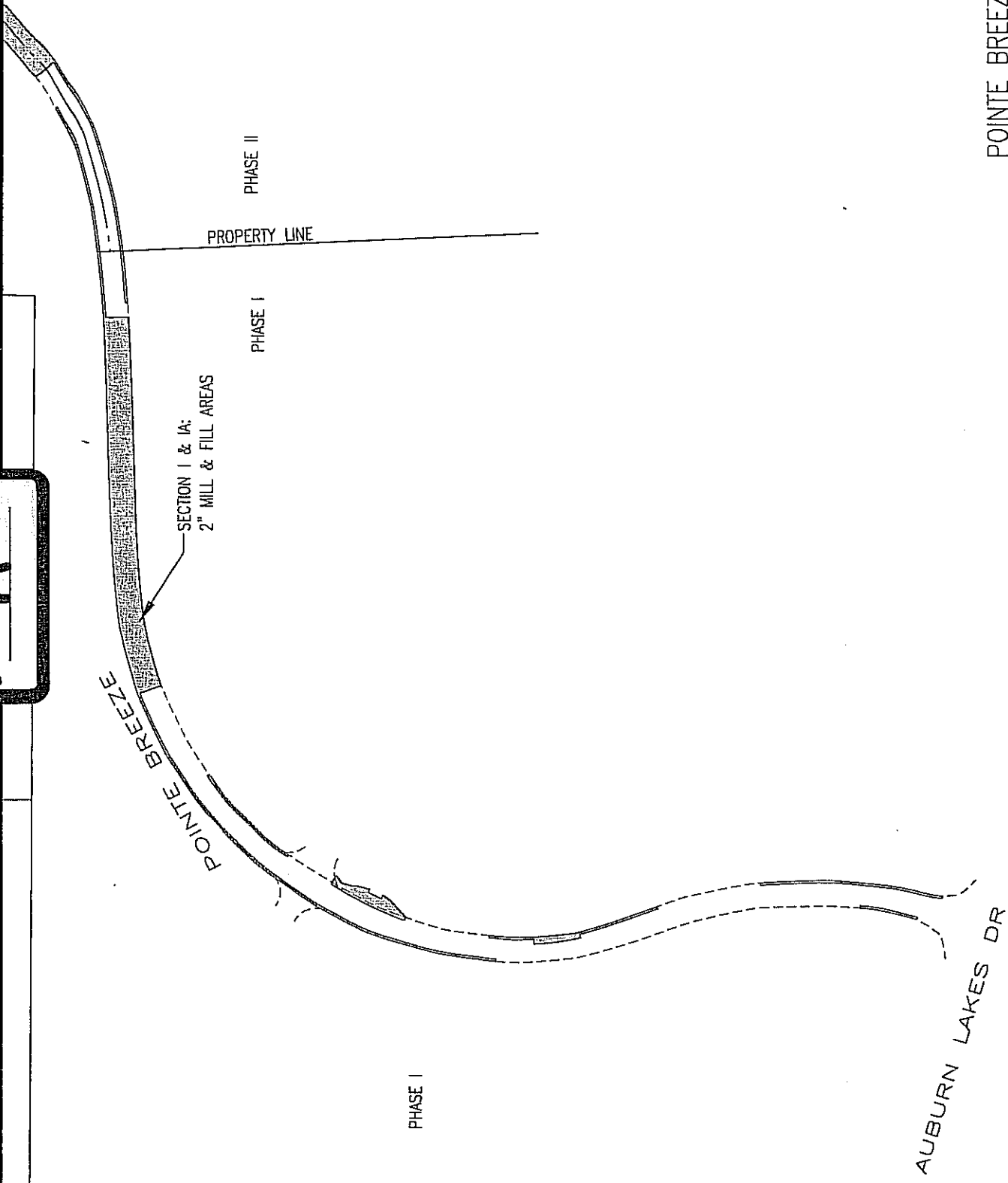
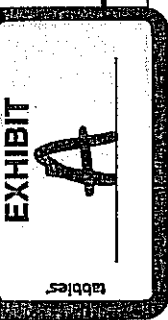
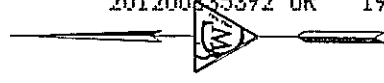
IN WITNESS WHEREOF, I have hereunto set my hand and official seal in Geauga County, Ohio, this 16 day of December, 2011

Cynthia Forster
NOTARY PUBLIC



POOR ORIGINAL
Recorder Not Responsible
For Reproductions

This instrument prepared by:
KAMAN & CUSIMANO, LLC
50 Public Square
2000 Terminal Tower
Cleveland, Ohio 44113
(216) 696-0650



LONG DR

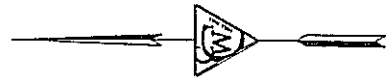
PHASE I

POINTE BREZE

SECTION IV:
EX. WATER COMPANY DRIVE
REMOVE & REPLACE ASPHALT
APRON - 30 SY

PHASE II

SECTION I & IA:
2" MILL & FILL AREAS



Instrument
201200835392 OR

Book
1916

POINTE BREZE SKETCH
2 OF 2