

JW Brooks Building
Amendments to DC & Bylaws

INTENT

Currently the term COMMON ELEMENTS as defined and used in the DC and “common areas and facilities” as defined and used in the Bylaws seem ambiguous. The intent of these amendments is to clarify the definitions and use of these terms so DC & Bylaws more clearly express our understanding of their original intent.

DECLARATION OF CONDOMINIUM

Amend 2.8 from:

2.8 COMMON ELEMENTS shall mean and refer to all portions of the condominium other than units ~~and limited common elements~~ and as more specifically set forth herein.

To:

2.8 COMMON ELEMENTS shall mean and refer to all portions of the condominium other than units and as more specifically set forth herein.

Purpose:

LIMITED COMMON ELEMENTS is defined in 2.9 as a subgroup of COMMON ELEMENTS therefore the 2.8 definition of COMMON ELEMENTS should not exclude LIMITED COMMON ELEMENTS.

Amend first paragraph of 5.1 from:

5.1 The common elements shall refer to all the real property described in that plan of J. W. BROOKS BUILDING CONDOMINIUM recorded in Condominium Plat Book 11, at Page 202, in the New Hanover County Registry, and al the improvements and facilities thereon, which are not units, as defined above, ~~which are not limited common areas as hereinafter defined,~~ and which are not personal property owned, held or maintained by the unit owners. Without in any way limiting the generality of the foregoing, the common areas shall include, but not be limited to the following:

To:

5.1 The common elements shall refer to all the real property described in that plan of J. W. BROOKS BUILDING CONDOMINIUM recorded in Condominium Plat Book 11, at Page 202, in the New Hanover County Registry, and al the improvements and facilities thereon, which are not units, as defined above and which are not personal property owned, held or maintained by the unit owners. Without in any way limiting the generality of the foregoing, the common areas shall include, but not be limited to the following:

Purpose:

Limited common areas are not herinafter defined, also LIMITED COMMON ELEMENTS is defined in 2.9 as a subgroup of COMMON ELEMENTS therefore 5.1 should not exclude LIMITED COMMON ELEMENTS from COMMON ELEMENTS.

Delete 6.3

Purpose:

ARTICLE IV defines Unit as including these items which seems consistent with remainder of document, therefore including these items in LIMITED COMMON ELEMENTS is contradictory and inconsistent with remainder of document.

Renumber 6.4 to 6.3 and amend from:

6.4 All air-handling units, ducts and components, and all water, power, telephone, cable television, electricity, and plumbing, gas, and sewerage lines located in the unit, provided however, that the portion of said lines located in the common compartment for the use by all owners of units shall be COMMON ELEMENTS as described above.

To:

6.3 All air-handling units, ducts and components (not separate for each unit), and all water, power, telephone, cable television, electricity, and plumbing, gas, and sewerage lines located in the unit, provided however, that the portion of said lines located in the common compartment for the use by all owners of units shall be COMMON ELEMENTS as described above.

Purpose:

To emphasize that such items that are separate for each unit are defined in ARTICLE IV as being part of Unit.

Renumber 6.5 to 6.4

Amend 8.1 from:

8.1 All painting, maintenance, repairs and replacements to the common elements ~~and limited common elements~~ as defined herein shall be made by the Association, and shall be charged to all unit owners as a common expense, except when the need for such repair is attributable to the misuse and neglect of a unit owner, in which case the expense shall be charged to such unit owner.

To:

8.1 All painting, maintenance, repairs and replacements to the common elements as defined herein shall be made by the Association, and shall be charged to all unit owners as a common expense, except when the need for such repair is attributable to the misuse and neglect of a unit owner, in which case the expense shall be charged to such unit owner.

Purpose:

Since limited common elements are a part of common elements stating it in addition to common elements is redundant and possibly confusing especially considering with similar intent paragraph 8.2 states common elements without mention of limited common elements.

BY-LAWS

Amend 2nd paragraph of Article I D. from:

As used in these By-Laws, “common areas and facilities” shall include ~~the portion of the Condominium Property owned, in undivided interest, by all the owners,~~ as set forth in the Declaration and any and all real property, together with improvements, fixtures and appurtenances; thereto, all fixtures and personal property, all rights and privileges, and such other possessory or use interest in land or facilities owned by or available for use by the Association.

To:

As used in these By-Laws, “common areas and facilities” shall include COMMON ELEMENTS as set forth in the Declaration and any and all real property, together with improvements, fixtures and appurtenances; thereto, all fixtures and personal property, all rights and privileges, and such other possessory or use interest in land or facilities owned by or available for use by the Association.

Purpose:

To clarify that “common areas and facilities” is the same as COMMON ELEMENTS as defined in the Declaration except for any expansion of that definition expressed in this paragraph.