

**RESOLUTION OF  
THE LEGENDS HOMEOWNERS ASSOCIATION, INC.  
(a.k.a. THE LEGENDS AT NORTH PARK)  
Maintaining the HOPA Exemption  
(December 1, 2021)**

WHEREAS, The Legends Homeowners Association, Inc., (the “Association”) “is designed and intended to be for adult living”<sup>1</sup>—that is, a community for people 55 years of age or older—and is subject to the Housing for Older Persons Act (“HOPA”);<sup>2</sup> and

WHEREAS, communities that meet the requirements of HOPA qualify for an exemption from the federal prohibition against familial status discrimination, such discrimination including the refusal to sell or rent to families with children, established by the Fair Housing Act; and

WHEREAS, consistent with the requirements of HOPA for the Association to qualify for the exemption, the Association’s declaration of covenants, conditions and restrictions (the “Declaration”) mandates that: “At least 80 percent of the occupied units are restricted and limited to at least one resident being fifty five (55) years of age or older;”<sup>3</sup> and

WHEREAS, the Declaration is silent regarding the regulation of the remaining 20 percent of the occupied units that need not, pursuant to HOPA, be occupied by at least one resident being fifty five (55) years of age or older (the “HOPA 20% of Occupied Units”); and

WHEREAS, HOPA provides that the Association may still qualify for the exemption even when the HOPA 20% of Occupied Units are occupied by persons that are all underage; and

WHEREAS, refusal to sell or rent homes, or allow homes to be sold or rented, to families with children if the Association does not qualify for the exemption may result in the U.S. Department of Housing and Urban Development (“HUD”) issuing a Determination of Reasonable Cause and a Charge of Discrimination, and commencing a federal civil trial against the Association and/or a refusing owner, which actions may result in the Association and/or refusing owner becoming liable for court costs, attorney fees, actual damages, punitive damages, equitable relief, and fines payable to HUD in amounts up to \$65,000;<sup>4</sup> and

WHEREAS, the Board of Directors desires to avoid the above-mentioned liability by preserving the Association’s HOPA exemption from the federal prohibition against familial status discrimination; and

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<sup>1</sup> Declaration of Covenants, Conditions and Restrictions for The Legends at North Park (a Planned Unit Development), recorded 2013-06-03 in the recorder’s office of Cache County, Utah, Art. II(N)(2)

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> HUD booklet, *Fair Housing—Equal Opportunity for All* ([https://www.hud.gov/sites/documents/FHEO\\_BOOKLET\\_ENG.PDF](https://www.hud.gov/sites/documents/FHEO_BOOKLET_ENG.PDF))

WHEREAS, the Board of Directors desires to regulate the HOPA 20% of Occupied Units in order to ensure that the Association continues to qualify for the HOPA exemption from the federal prohibition against familial status discrimination; and

WHEREAS, the Board of Directors desires to preserve the HOPA 20% of Occupied Units for residents who may be underage but whose 55+ spouses or co-residents pass away, resulting in a situation where such underage residents may otherwise be required to move out of the community in order for the Association to preserve its HOPA exemption;

THEREFORE, be it

RESOLVED, that the HOPA 20% of Occupied Units shall be regulated in accordance with the following (the capitalized terms used in the following paragraph shall have the meanings ascribed in the Declaration):

Each occupied Living Unit shall be occupied by at least one individual who is 55 years of age or older, with the following exception which shall be timely acknowledged in writing by the Board of Directors or Manager: upon the passing of an individual who was a resident of a Living Unit and was 55 years of age or older, the decedent's underage spouse, sibling(s), or descendant(s) who is at least 45 years of age, and who was a resident of the Living Unit prior to and at the time of the passing, shall be allowed to continue residing in the Living Unit. Notwithstanding the foregoing, no exception shall be available unless at least 80 percent of the occupied Living Units are occupied by at least one individual who is 55 years of age or older as determined in accordance with the Housing for Older Persons Act. For purposes of the foregoing, an individual who resides in a Living Unit and is 55 years of age or older shall be considered a resident of the Living Unit even if that individual is temporarily absent from the Living Unit due to being on vacation, military deployment, extended sabbatical, or the like, or in a hospital, nursing home, care center, or other facility that is providing short- or long-term care to the individual.

**[SIGNATURES ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, the undersigned members of the Board of Directors certify that they represent a quorum and that they have executed and ratified this Resolution as effective on the date first written above.

Signed: Lynn H Collings  
Printed Name: Lynn H. Collings, Director

Signed: Deanna Bodily  
Printed Name: Deanna Bodily, Director

Signed: Gretchen Stelling  
Printed Name: Gretchen Stelling, Director

Signed: GR Gibbons  
Printed Name: Gay R Gibbons, Director

Signed: Douglas F. White  
Printed Name: Douglas F. White, Director