



Summary of Westbury Declaration v. CIOA Statutes

The following pages represent a comparison of Westbury's Declaration with amendments to the Common Interest Ownership Act (CIOA) signed into law in July 2009 which became effective July 1, 2010.

DISTRIBUTED: February 17, 2015 // Board of Directors' Meeting

Westbury Declaration: Article I — DEFINITIONS

- Section 1. 1 — Act**
- Section 1. 2 — Allocated Interests**
- Section 1. 3 — Association**
- Section 1. 4 — Bylaws**
- Section 1. 5 — Common Elements**
- Section 1. 6 — Common Expenses**
- Section 1. 7 — Common Interest Community**
- Section 1. 8 — Declarant**
- Section 1. 9 — Declaration**
- Section 1.10 — Development Rights**
- Section 1.11 — Director**
- Section 1.12 — Documents**
- Section 1.13 — Eligible Insurer**
- Section 1.14 — Eligible Mortgagee**
- Section 1.15 — Executive Board**
- Section 1.16 — Improvements**
- Section 1.17 — Land**
- Section 1.18 — Limited Common Elements**
- Section 1.19 — Notice and Comment**
- Section 1.20 — Notice and Hearing**
- Section 1.21 — Person**
- Section 1.22 — Plans**
- Section 1.23 — Property**
- Section 1.24 — Rules**
- Section 1.25 — Security Interest**
- Section 1.26 — Survey**
- Section 1.27 — Unit**
- Section 1.28 — Unit Owner**
- Section 1.29 — Votes**



SUMMARY FOR THE BOARD —

The Bylaws Committee recommends and draws your attention to the following Sections of Westbury's Declaration, Article I, Definitions, to be deleted or revised. Please refer to the following page numbers listed below in the column on the left. These recommendations are not meant to be all inclusive, as the Board may want to revise other definitions not cited here.

Page No.	Action:
1: First paragraph, beginning "Kingswood West Associates..."	Delete
2: Section 1.4 , Bylaws	Revise to conform more with the language of the CIOA
3: Section 1.7, Common Interest Community	Revise. Incorporate more of the CIOA definition
3: Section 1.8, Declarant	Delete
4: Section 1.10, Development Rights	Delete
5. Section 1.15, Executive Board	Suggested revision: use wording as it appears in CIOA §47-202 (18)
10: Section 1.28, Unit Owner	Revise: Delete any reference to "Declarant"
11: Section 1.29, Votes	Suggested revision: <u>Section 1.29, Votes Allocated</u> . The number of votes apportioned to each Unit as shown on Schedule a-2.

If the Board would like further assistance in the revisions suggested here, the Bylaws Committee is willing to draft definitions for Sections where revisions have been recommended.

EXHIBIT A
DECLARATION OF WESTBURY CONDOMINIUMS
WEST HARTFORD, CONNECTICUT

DECLARATION OF WESTBURY CONDOMINIUMS

~~Kingswood West Associates Limited Partnership, a Connecticut limited partnership having an office at 50 Columbus Boulevard, Hartford, Connecticut, hereby submits the real property in the Town of West Hartford, Connecticut described in Schedule A-1, to the provisions of the Common Interest Ownership Act, Chapter 828, of the Connecticut General Statutes, as amended, for the purpose of creating Westbury Condominiums.~~ **[Bylaws Committee recommends that the above description be deleted from the Declaration.]**

ARTICLE I

DEFINITIONS

Westbury:

In the Documents, the following words and phrases shall have the following meanings:

Section 1.1 – Act. The Common Interest Ownership Act, Chapter 828, of the Connecticut General Statutes, as it may be amended from time to time.

CIOA: §47-200. Short Title: Common Interest Ownership Act. This chapter may be cited as the “Common Interest Ownership Act”.

Westbury:

Section 1.2 – Allocated Interests. The undivided interest in the Common Elements, the Common Expense liability, and Votes in the Association, allocated to the Units in the Common Interest Community. The Allocated Interests are described in Article IX of the Declaration and shown on Schedule A-2.

CIOA: §47-202. Definitions.

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this chapter:

(2) “Allocated interests” means the following interests allocated to each unit:

(A) In a condominium, the undivided interest in the common elements, the common expense liability, and votes in the association;

(B) ~~in a cooperative, the common expense liability...~~

Definitions (cont'd.) CIOA §47-202

(C) ~~in a planned community, the common expense liability...~~

Westbury:

Section 1.3 – Association. The Westbury Condominiums Association, Inc., [is] a non-stock corporation organized under the laws of the State of Connecticut. It is the Association of Unit Owners pursuant to Section §47-243 of the Act.

CIOA: §47-202

(B) (4) “Association” or “unit owners’ association” means the unit owners’ association organized under Section §47-243: **Organization of unit owners’ association.**

Westbury:

Section 1.4 – Bylaws. The Bylaws of the Association, as they may be amended from time to time.

CIOA: §47-202

(B) (5) “Bylaws” means the instruments, however denominated,* that contain the procedures for conduct of the affairs of the association regardless of the form in which the association is organized, including any amendments to the instruments. [**Bylaws Committee recommends revision of Section 1.4 definition; it does not explain what is meant by the term, bylaws. * “Instruments however denominated” means legal documents designated or having specific names.]**

Westbury:

Section 1.5 – Common Elements. All portions of the Common Interest Community other than the Units.

CIOA: §47-202

(6) “Common elements” means:

(A) in the case of:

(i) a condominium or cooperative, all portions of the common interest community other than units; and

(ii) ~~a planned community, any real property within a planned community owned or leased by...~~

(B) in all common interest communities, any other interests in real property for the benefit of unit owners which are subject to the declaration.

Westbury:

Section 1.6 – Common Expenses. The expenses for the operation of the Common Interest Community as set forth in Section 19.1 of this Declaration.

CIOA §47-202

(7) “Common expenses” means expenditures made by, or financial liabilities of, the association, together with any allocations to reserves.

Westbury:

Section 1.7 – Common Interest Community. Westbury Condominiums.

CIOA §47-202

(9) “Common interest community” means real property described in a declaration with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for a share of:

- (A) real property taxes on,**
- (B) insurance premiums on,**
- (C) maintenance of,**
- (D) improvement of, or**
- (E) services or other expenses related to,**

common elements, other units or any other real property other than that unit described in the declaration.

(10) “Condominium” means a common interest community in which portions of the real property are designated for separate ownership and the remainder of the real property is designated for common ownership solely by the owners of those portions. A common interest community is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Westbury:

~~Section 1.8 – Declarant. Kingswood West Associates Limited Partnership or its successors, as defined in Section 47-202 of the Act.~~

[Bylaws Committee recommends that Section 1.8 – Declarant be deleted from the Declaration.]

Westbury:

Section 1.9 – Declaration. This document, including any amendments.

CIOA §47-202

(15) “Declaration” means any instruments, however denominated, that create a common interest community, including any amendments to those instruments.

Westbury:

~~Section 1.10 – Development Rights. The rights reserved by the Declarant under Article VIII of this Declaration to allocate subsequently [.] parking spaces as Limited Common Elements.~~

[**Bylaws Committee recommends that Section 1.10 – Development Rights be deleted from the Declaration.]**

Westbury:

Section 1.11 – Director. A member of the Executive Board.

[**No definition could be found for the term, “Director” under CIOA, §47-202. However, CIOA §47-202 defines “Executive Board” as “the body, regardless of name, designated in the declaration to act on behalf of the association.”]**

Westbury:

Section 1.12 – Documents. The Declaration, Survey and Plans recorded and filed pursuant to the provisions of the Act, the Bylaws, and the Rules, as they may be amended from time to time. Any exhibit, schedule or certification accompanying a Document is a part of the Document.

[**No definition furnished in the CIOA for the term, “Documents”.]**

Westbury:

Section 1.13 – Eligible Insurer. An insurer or guarantor of a first Security Interest in a Unit which has notified the Association in writing of its name and address and that it has insured or guaranteed a first Security Interest in a Unit. Such notice shall be deemed to include a request that the Eligible Insurer be given the notices and other rights described in Article XVIII [See: **Article XVIII (18), Mortgagee Protection, Page 27, Declaration**]

CIOA §47-202 (Response to Westbury, Section 1.13, Eligible Insurer)

(32) “Security interest means an interest in real property or personal property, created by contract or conveyance, which secures payment or performance of an obligation. “Security interest” includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation.

[Bylaws Committee is unsure that CIOA §47-202 (32) is an accurate comparison definition for Westbury Section 1.13 on Page 4, above. Should Westbury definition “Eligible Insurer” remain as part of Article I of the Definitions?]

Westbury:

Section 1.14 – Eligible Mortgagee. The holder of a first Security Interest in a Unit which has notified the Association in writing of its name and address and that it holds a first Security Interest in a Unit. Such notice shall be deemed to include a request that the Eligible Mortgagee be given the notices and other rights described in Article XVIII.

CIOA §47-202

(27) “Purchaser” means a person, other than a declarant or a dealer*, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than:

(A) a leasehold interest, including renewal options, of less than twenty years, or:

(B) as security for an obligation.

* Dealer: a person who owns either six or more units, or fifty percent or more of all the units, in a common interest community.

Westbury:

Section 1.15 – Executive Board. The board of directors of the Association.

CIOA §47-202

(18) “Executive board” means the body, regardless of name, designated in the declaration to act on behalf of the association.

Westbury:

Section 1.16 – Improvements. Any construction or facilities existing or to be constructed on the Land included in the Common Interest Community, including, but not limited to, buildings, trees and shrubbery, parking areas, roadways, walkways, paving, recreation facilities, utility wires, pipes, and light poles.

Westbury:

Section 1.17 – Land. The land included in the Common Interest Community.

[**Bylaws Committee found no definitions in the CIOA for the terms, “Improvements” or “Land.”**]

Westbury:

Section 1.18 – Limited Common Elements. A portion of the Common Elements allocated by the Declaration or by the operation of Subsection (2) or (4) of Section 47-221* of the Act for the exclusive use of one or more but fewer than all of the Units. The Limited Common Elements in this Common Interest Community are described in Article V of this Declaration.

CIOA §47-202

(21) **“Limited common element” means a portion of the common elements allocated by the declaration or by operation of subdivision (2) or (4) of Section §47-221* for the exclusive use of one or more but fewer than all of the units.**

*** §47-221: Unit boundaries. (2) If any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.**

(4) Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios and all exterior doors and windows or other fixtures designed to serve a single unit, but located outside the unit’s boundaries, are limited common elements allocated exclusively to that unit.

(continued)

Westbury:

Section 1.19 – Notice and Comment. The right of a Unit Owner to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to comment thereon. The procedures for Notice and Comment are set forth in Section 24.1 of this Declaration.

CIOA §47-261 b. Rules

(a) At least ten days before adopting, amending or repealing any rule, the executive board shall give all unit owners notice of:

(1) The executive board's intention to adopt, amend or repeal a rule and shall include with such notice the text of the proposed rule or amendment, or the text of the rule proposed to be repealed; and,

(2) the date on which the executive board will act on the proposed rule, amendment or repeal after considering comments from unit owners.

[Bylaws Committee has printed in blue and underlined for emphasis in CIOA §47-261 b (a) and (a) (2). Also, see text printed in blue and underlined in CIOA §47-244 (a) (11) below.]

Westbury:

Section 1.20 – Notice and Hearing. The right of a Unit Owner to receive notice of an action proposed to be taken by the Association, and the right to be heard thereon. The procedures for Notice and Hearing are set forth in Section 24.2 of this Declaration.

CIOA §47-244. Powers and duties of unit owners' association

(a) Except as provided in subsection (b) of this section, and subject to the provisions of the declaration, the association, even if unincorporated:

(11) May impose charges or interest or both for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, rules and regulations of the association.

(d) If a tenant of a unit owner violates the declaration, bylaws or rules and regulations of the association, in addition to exercising any of its powers against the unit owner, the association may: (1) Exercise directly against the tenant the powers described in subdivision (11) of subsection (a) of this section; [see immediately above]

Westbury:

Section 1.26 – Survey. The survey filed with this Declaration as Schedule A-3, as it may be amended or supplemented from time to time.

CIOA §47-228

(a) Surveys and plans are required for condominiums and planned communities, but are not required for cooperatives. Any surveys and plans are a part of the declaration. Separate surveys and plans are not required by this chapter if all the information required by this section is contained in either a survey or plan. Each survey and plan shall be clear and legible and contain a certification that the survey or plan contains all information required by this section.

Westbury:

Section 1.27 – Unit. A physical portion of the Common Interest Community designated for separate ownership or occupancy, the boundaries of which are described in Section 4.3 of this Declaration.

CIOA §47-202

(35) “Unit” means a physical portion of the common interest community designated for separate ownership or occupancy, the boundaries of which are described pursuant to subdivision (5) of subsection (a) of Section §47-224,* as amended by this act. ~~If a unit in a cooperative ...~~

*** §47-224 Contents of declaration**

(a) (5) In a condominium or planned community, a description of the boundaries of each unit created by the declaration, including the unit’s identifying number or, in a cooperative, a description, which may be by surveys or plans, of each unit created by the declaration, including the unit’s identifying number, its size or number of rooms and its location within a building if it is within a building containing more than one unit; ...

Westbury:

Section 1.28 – Unit Owner. ~~The Declarant or other Person who owns a Unit. Unit Owner does not include a Person having an interest in a Unit solely as security for an obligation. The Declarant is the initial owner of any Unit created by this Declaration.~~

CIOA §47-202

(36) “Unit owner” means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold common interest community * whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common interest community, but does not include a person having an interest in a unit solely as security for an obligation. In a condominium or planned community, the declarant is the owner of any unit created by the declaration. In a cooperative...

* CIOA §47-202: (20) “Leasehold common interest community” means a common interest community in which all or a portion of the real property is subject to a lease the expiration or termination of which will terminate the common interest community or reduce its size.

[Bylaws Committee recommends revision to Westbury, Section 1.28 of the Declaration.]

[Bylaws Committee requests further interpretation and/or clarification of the CIOA definition of “Unit Owner”, no. (36) above.]

Westbury:

Section 1.29 – Votes. The votes allocated to each Unit as shown on Schedule A-2.

[CIOA does not provide a definition of the term, “Votes” among the definitions.]

Date: February 12, 2015

File name: DeclarationWestburyArtito4

This section contains: Westbury Declaration, Sections 1.1 through 1.29

