

RAM



STATE OF HAWAII  
OFFICE OF ASSISTANT REGISTRAR  
RECORDED

January 27, 2016 3:29 PM

Doc No(s) T-9522225  
on Cert(s) 1101487, 1110259  
Issuance of Cert(s)



1 1/1 FEH  
8-32754326

/s/ NICKI ANN THOMPSON  
ASSISTANT REGISTRAR

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL [ X ] PICK-UP [ ]

McCorriston Miller Mukai MacKinnon LLP (DSM)  
P.O. Box 2800  
Honolulu, Hawaii 96803-2800  
Telephone No. 529-7300

This Document Contains \_\_\_ Pages

Tax Map Key Nos. (1) 2-1-044: 0049, CPR Nos. 0001 thru 0389  
Transfer Certificate of Title Nos. 1,101,487 and 1,110,259

**SECOND AMENDMENT  
TO  
DECLARATION OF CONDOMINIUM PROPERTY REGIME OF SYMPHONY HONOLULU**

WHEREAS, the Declaration of Condominium Property Regime of Symphony Honolulu dated March 4, 2013, made and executed by **OLIVERMcMILLAN PACIFIC RIM, LLC**, a Hawaii limited liability company, as the Developer (the "**Developer**"), and **JN GROUP, INC.**, a Hawaii corporation, and **CASTI FAMILY LIMITED PARTNERSHIP**, a Hawaii limited partnership (collectively, the "**Landowner**"), was filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii (the "**Land Court**") as Land Court Document No. T-8463373, as amended by First Amendment to Declaration of Condominium Property Regime of Symphony Honolulu and Condominium Map No. 2195 dated as of April 18, 2013, filed in the Land Court as Land Court Document No. T-8513346, both of said documents being duly noted on Transfer Certificate of Title Nos. 1,101,487 and 1,110,259 (hereinafter collectively called the "**Declaration**"), and as shown on Condominium Map No. 2195, as amended, filed in the Land Court (the "**Condominium Map**"); and

WHEREAS, Landowner conveyed the fee simple interest in the lands underlying the Symphony Honolulu Condominium Project by Warranty Deed and Assignment of Grantor's Rights and Reservations dated July 30, 2015, filed in the Land Court as Land Court Document No. T-9341174; and

WHEREAS, the Developer has been informed by legal counsel representing certain of the institutional lenders intending to make individual mortgage loans to the purchasers of Units in the Project that certain amendments to Section 29.1 of the Declaration are required to be made in order to bring the provisions into compliance with the condominium guidelines adopted and currently in effect by the Federal National Mortgage Association, as more particularly enumerated and set forth in this Second Amendment to Declaration of Condominium Property Regime of Symphony Honolulu (the "**Second Amendment**"); and

WHEREAS, pursuant to the provisions of Sections 21.A, 21.D and 21.E of the Declaration the Developer has the reserved right to amend the Declaration (including all exhibits) as may be required to comply with any laws or to meet any requirements imposed by any federal rule that

applies to the Project, or any institutional lender lending funds on the security of the Project, or any governmental or quasi-governmental agency including the Federal National Mortgage Association, as follows:

21. DEVELOPER'S RESERVED RIGHT TO CHANGE THE PROJECT TO COMPLY WITH LAW, LENDERS, TITLE INSURERS, ETC. Regardless of anything stated to the contrary in this Declaration or the Bylaws or the Condominium Map, and except as otherwise provided by law, the Developer reserves the right (but not the obligation), at any time and from time to time, to change the Units, the Common Elements, the Limited Common Elements, and/or to amend the Condominium Documents as required to comply with any laws or to meet any requirements imposed by:

A. any federal, state or county law, rule or ordinance that applies to the Project or to the Association, or the Developer,

...

D. any institutional lender lending funds on the security of the Project or any of the Units,

E. any other governmental or quasi-governmental agency, including, without limitation, the HCDA, the City and County of Honolulu, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the U.S. Department of Housing and Urban Development, or the Veteran's Administration.

... The Developer may also use any of the other Developer's Reserved Rights described in this Declaration in connection with the use of its rights under this Section 21.

WHEREAS, all terms capitalized and not otherwise defined herein shall have the respective meanings ascribed to them in the Declaration; and

NOW, THEREFORE, in consideration of the Recitals set forth above and in accordance with the provisions of Sections 21.A, 21.D, and 21.E of the Declaration, the Developer does hereby exercise its Developer's Reserved Rights under the Declaration to amend, revise and modify the Declaration in the following respects:

1. Amendment to Section 29.1. Section 29.1 appearing on pages 55 and 56 of the Declaration is hereby amended in its entirety to read as follows:

29.1 Mortgagee Approval. Except as otherwise provided in this Declaration, amendments to this Declaration of a material nature shall require the approval of eligible mortgage holders (as defined below) who hold Mortgages on Units to which is appurtenant at least fifty-one percent (51%) of the aggregate common interest appurtenant to all Units that are subject to Mortgages held by eligible mortgage holders. For purposes of this Section 29.1, an amendment of a "material nature" shall include, but is not limited to, an amendment that establishes, provides for, governs or regulates any of the following:

A. voting rights;

B. increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;

- C. *reductions in reserves for maintenance, repair, and replacement of Common Elements;*
- D. *responsibility for maintenance and repairs;*
- E. *reallocation of interests in the Common Elements or rights to their use;*
- F. *redefinition of any Unit boundaries;*
- G. *convertibility of Units into Common Elements or vice versa;*
- H. *expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project;*
- I. *hazard or fidelity insurance requirements;*
- J. *imposition of any new or additional restrictions on the leasing of Units;*
- K. *imposition of any new or additional restrictions on a Unit Owner's right to sell or transfer his or her Unit;*
- L. *a decision by the Association to establish self-management if professional management has been required previously;*
- M. *restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified herein or in the Bylaws; or*
- N. *any provisions that expressly benefit holders, insurers, or guarantors of first mortgages on Units in the Project.*

*To qualify as an "eligible mortgage holder," a holder, insurer or guarantor of a first Mortgage on a Unit in the Project must have made a written request to the Association for timely written notice of proposed amendments to the Condominium Documents. The request must state the name and address of the holder, insurer or guarantor and the number of the Unit covered by the Mortgage. In the event that an eligible mortgage holder fails to appear at a meeting of the Association at which amendments of a material nature to this Declaration are proposed and considered, or fails to file a written response with the Association within sixty (60) days after it receives proper notice of the proposed amendment, delivered by certified or registered mail, with a "return receipt" requested, then and in any such event such amendments shall conclusively be deemed approved by such eligible mortgage holder. Notwithstanding the foregoing, changes to the Project that occur through the exercise of rights reserved to the Developer herein (including, but not limited to, the Developer's Reserved Rights and the withdrawal of portions of the Land from this Declaration and the Project) shall not require the approval or consent of mortgagees (including eligible mortgage holders), each mortgagee (including each eligible mortgage holder) being hereby put on notice that such changes may occur.*

2. **Ratification.** The Declaration, as further amended by this Second Amendment, is hereby ratified and confirmed and shall continue in full force and effect.

**[Signatures Appear on Following Page]**

IN WITNESS WHEREOF, the Developer has executed this Second Amendment to Declaration of Condominium Property Regime of Symphony Honolulu as of this 21 day of January, 2016.

**Developer:**

✓ **OLIVERMcMILLAN PACIFIC RIM, LLC**  
a Hawaii limited liability company

By: OMB V, LLC  
a Delaware limited liability company  
Its sole Member

By: OM-OMB V GROUP, LLC  
a Delaware limited liability company  
Its sole Manager

By



William P. Persky  
Its Secretary & CFO

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of San Diego

On January 21, 2016, before me, Amanda Calleros,  
Notary Public, personally appeared **WILLIAM P. PERSKY**, who proved to me on the basis of  
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their  
authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s),  
or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[SEAL]

Signature *Amanda Calleros*

