

CHAPTER XXVIII

CONDOMINIUMS



STANDARD 28.1

CONDOMINIUM UNIT AS REAL PROPERTY

STANDARD: A CONDOMINIUM UNIT, TOGETHER WITH AND INSEPARABLE FROM ITS APPURTENANT SHARE OF COMMON ELEMENTS, IS REAL PROPERTY AND IS INDEPENDENT OF THE OTHER CONDOMINIUM UNITS.

Problem A: Dennis Jones, owner of Blackacre, recorded a condominium master deed encompassing Blackacre and establishing 30 condominium units. The master deed assigned to each unit a limited common element carport. Kathy Green, owner of a unit in Blackacre, conveyed the unit by deed to Bill White. The legal description in the deed identified the unit, but did not recite that the unit was conveyed together with its appurtenant common elements. Did White acquire title to the unit's appurtenant share of common elements, including the limited common element carport?

Answer: Yes.

Problem B: Same facts as in Problem A, except that Green's deed described only the carport. Did White acquire title to the carport?

Answer: No. A limited common element may not be conveyed separately from the unit to which it is assigned.

Authority: MCL 559.161.

Note: See Standard 28.3 regarding the reassignment of limited common elements.

STANDARD 28.2

RELOCATION OF BOUNDARIES BETWEEN ADJOINING CONDOMINIUM UNITS

STANDARD: THE BOUNDARIES BETWEEN ADJOINING CONDOMINIUM UNITS MAY BE RELOCATED ONLY IF EXPRESSLY PERMITTED BY THE CONDOMINIUM DOCUMENTS. THE RELOCATION IS EFFECTIVE BY RECORDING AN AMENDMENT TO THE MASTER DEED THAT IDENTIFIES THE UNITS INVOLVED IN THE RELOCATION AND CONTAINS CONVEYANCING BETWEEN UNITS WHOSE BOUNDARIES ARE BEING RELOCATED. THE CO-OWNERS OF THE AFFECTED UNITS MAY AGREE ON A REASONABLE REALLOCATION OF THE AGGREGATE UNDIVIDED INTEREST IN COMMON ELEMENTS APPERTAINING TO SUCH UNITS. RELOCATION OF THE BOUNDARIES BETWEEN ADJOINING UNITS REQUIRES APPROVAL OF AN AFFECTED MORTGAGEE.

Problem A: Kathy Green and Bill White own adjoining condominium units in Blackacre. The condominium documents expressly permit relocation of the boundaries between adjoining units at the request of the affected unit owners. May Green and White relocate the boundary between their units by a recorded amendment to the master deed?

Answer: Yes.

Problem B: Same facts as in Problem A, except: that the condominium documents do not contain a provision permitting relocation of unit boundaries. May Green and White relocate the boundary between their units?

Answer: No.

Authority: MCL 559.148.

STANDARD 28.3

REASSIGNMENT OF LIMITED COMMON ELEMENTS

STANDARD: LIMITED COMMON ELEMENTS MAY BE REASSIGNED ONLY BY A RECORDED AMENDMENT TO THE MASTER DEED. LIMITED COMMON ELEMENTS MAY NOT BE REASSIGNED IF REASSIGNMENTS ARE EXPRESSLY PROHIBITED BY THE CONDOMINIUM DOCUMENTS.

Problem A: Kevin Brown and Bob Baker each owns a condominium unit in Blackacre. The recorded master deed assigned to Brown's unit a limited common element boat slip. The condominium documents do not expressly prohibit the reassignment of limited common elements. A recorded amendment to the master deed reassigned Brown's limited common element boat slip to Baker's unit. Is the reassignment valid?

Answer: Yes.

Problem B: Same facts as in Problem A, except that the recorded master deed expressly prohibits reassignment of limited common elements. Is the reassignment valid?

Answer: No.

Authority: MCL 559.139.

STANDARD 28.4

SUBDIVISION OF CONDOMINIUM UNIT

STANDARD: A CONDOMINIUM UNIT MAY BE SUBDIVIDED ONLY IF EXPRESSLY PERMITTED BY THE RECORDED MASTER DEED. IN SUCH CASE, THE SUBDIVISION OF A UNIT IS EFFECTIVE UPON RECORDING AN AMENDMENT TO THE MASTER DEED THAT ASSIGNS NEW IDENTIFYING NUMBERS TO THE UNITS CREATED BY THE SUBDIVISION AND ALLOCATES TO THOSE UNITS ALL OF THE UNDIVIDED INTEREST IN COMMON ELEMENTS APPERTAINING TO THE SUBDIVIDED UNIT.

Problem A: Dennis Jones, owner of Blackacre, recorded a condominium master deed encompassing Blackacre and establishing 30 condominium units. The master deed expressly reserved to Jones, as developer, and to the condominium association, the authority to subdivide units at the request of a unit owner. Kevin Brown owns a unit in Blackacre. May Brown's unit be subdivided by a recorded amendment to the master deed?

Answer: Yes.

Problem B: Same facts as in Problem A, except that the recorded master deed does not expressly permit the subdivision of units. May Brown's unit be subdivided?

Answer: No.

Authority: MCL 559.149.

Comment: If the amendment subdividing a condominium unit does not specifically allocate among the resulting units the limited common elements previously assigned to the subdivided unit, then the resulting units jointly share all rights, and are equally liable, jointly and severally, for all obligations, with regard to the limited common elements previously assigned to the subdivided unit. MCL 559.149(3). The votes in the association and the share of expenses of administration previously allocated to the subdivided unit are proportionately allocated to the resulting units. MCL 559.149(4). Local ordinances may further regulate the division of condominium units. MCL 559.241.

