

**KINGSBERRY HOMEOWNERS ASSOCIATION, INC.**  
**P.O. BOX 2672**  
**Fairfax, Virginia 22031-0672**

May 14, 2015

**VIA REGULAR MAIL**

Addressee  
46\_\_ Luxberry Drive  
Fairfax, VA 22032

**RE:** Property Address: 46\_\_ Luxberry Drive, Fairfax, VA 22032  
Lot #: \_\_

Dear Homeowner:

Enclosed please find:

1. Notice and Agenda for the upcoming Special Meeting of the members on June 10, 2015
2. Amendment to Declaration for Kingsberry Ratification and Consent Form

Your Board of Directors is concerned about preserving the community and, at the same time, providing enough flexibility for the Association to address future needs as they may arise so that Kingsberry can maintain its vibrancy as a community. During the past year, our legal counsel has reviewed our governing documents and prepared the enclosed amendment to ensure we comply with current law, protect our assets and property, and are up-to-date with modern Homeowners Association (HOA) practices. In summary, adopting this amendment to the Declaration will be of great benefit to the community, and provide the Association with a strong platform from which to function in the future.

**About Section 7.8**

During the past several years the number of rental units in Kingsberry has increased dramatically. Currently, over 14% of all Kingsberry townhouse units are now rentals, and this percentage is projected to continue rising. Coincident with the increase in rental units, the Board has observed that many new arrivals to the community appear uninformed and unaware of requirements and responsibilities associated with membership in the HOA as specified in our governing documents. Additionally, the Board has become concerned that in certain instances information relating to who and how many people are residing in a rental unit has not been made available to the Board for use during emergency situations or for otherwise routine notification matters.

The modification to Section 7.8 of the Declaration provides clarifying language specifying the responsibility of homeowners intending to lease their property:

1. to include as a provision of any lease that tenant(s) will comply with the provisions of all Association governing documents,
1. that such leases shall contain contact information for all tenants who are parties to a lease,
2. that the Kingsberry Board of Directors may require a standard form lease or lease addendum for use by owners and,
3. that each owner shall forward a copy of any lease to the Board of Directors.

## About Article 14

During the past several years a number of homeowner associations in Virginia have faced contentious litigation from homeowners in connection with disputes relating to the interpretation of language employed in their governing documents. Some of these disputes have resulted in enormous costs to associations lacking specific and clear language for recouping costs associated with administrative and legal procedures attendant to such disputes. In some instances these costs have run into the hundreds of thousands of dollars, bankrupted associations, and required homeowners to pay special assessments in the thousands of dollars.

The Board, being mindful of the increasing trend in litigious actions within HOA communities has worked for many months with legal counsel to provide language for a new Article 14 to our Declaration specifically targeted at safeguarding the hard-earned equity of our members.

The new Article 14 provides clarifying language specifically citing the authority of the Kingsberry Homeowners Association:

1. to levy and collect monetary charges and fees from owners and community residents relating to violations of the Declaration, the Bylaws, the Rules and Regulations, the Architectural and Environmental Guidelines and all other Association governing documents, including:
  - a. late fees for unpaid assessments,
  - b. administrative charges
  - c. other fees imposed by the Association or its managing agent, and,
2. in the event the Association employs an attorney to enforce, by suit or otherwise, violations of the **Declaration** or the **Rules and Regulations**, by owners or residents, the respective owner or resident shall be personally responsible for and shall pay actual attorneys' fees as well as court costs incurred, or paid by, the Association, even if a lawsuit has not been filed, in addition to any other amounts due to the Association against such Owner or resident.

Please take a few moments to review the proposed amendments. We urge you to complete the Amendment Ratification and Consent form and return it to the Association via scan/email, regular mail or hand delivery. If you have questions, concerns or would like further explanation of the amendment, please come to the special meeting scheduled on June 10, 2015. **In order to modify the Declaration a majority of homeowners (51%) must assent to ratification; consequently, your participation is essential.**

Again, thank you in advance for your approval and interest in your community.

Sincerely,

The KHA Board of Directors

Enclosures

**THE KINGSBERRY HOMEOWNERS ASSOCIATION, INC.**  
**P.O. BOX 2672**  
**FAIRFAX, VIRGINIA 22031**

**SPECIAL MEETING OF MEMBERS**

June 10, 2015

7:30 P.M.

Robinson Secondary School  
Recital Hall  
5035 Sideburn Road  
Fairfax, VA 22032

**AGENDA**

I. CALL TO ORDER

II. FOURTH AMENDMENT TO DECLARATION – REVIEW/DISCUSSION

III. ADJOURNMENT

# THE KINGSBERRY HOMEOWNERS ASSOCIATION, INC.

## AMENDMENT TO DECLARATION FOR KINGSBERRY

### Ratification and Consent Form Instructions

1. Except for signature, print (or type) all other required information. Use black or blue ink.
2. The Owner name(s) must be listed on the line provided *exactly* as it/they appear(s) on the Deed.
  - If a Lot is owned by more than one individual, please provide the names and signatures of all owners of record on the lines provided.
  - If the Lot is owned by a trust or legal entity, provide the name of the legal entity on the line provided.
3. If the Owner or Owners approve the proposed amendments to the Declaration, as more specifically set forth in Exhibit A to this Ratification and Consent Form, please sign and date the Ratification and Consent Form on the lines provided.
4. Please return the completed and signed Ratification and Consent Form by:
  - Scanned electronic mail to [board@kingsberryhoa.org](mailto:board@kingsberryhoa.org) ;
  - Mail to:  
Kingsberry Homeowners Association, Inc.  
P.O. Box 2672  
Fairfax, VA 22031
  - Hand-deliver to:  
  
Ron Acker  
4662 Luxberry Drive  
Fairfax, VA 22032
5. Please do not delay sending your response.

**THE KINGSBERRY HOMEOWNERS ASSOCIATION, INC.**

**AMENDMENT TO DECLARATION  
FOR KINGSBERRY**

**Ratification and Consent Form**

I/We, \_\_\_\_\_ and \_\_\_\_\_,  
*Print Name (or Trust / Legal Entity) Print Name*

Owner(s) of \_\_\_\_\_, Kingsberry in Fairfax, Virginia, being a member(s)  
*Print Kingsberry Address*

of The Kingsberry Homeowners Association, Inc., in accordance with Section 13.1 of the Declaration, do hereby approve, ratify and consent to the proposed amendments to the Declaration, presented by the Association Board of Directors and as more specifically set forth in Exhibit A to this Ratification and Consent Form, attached hereto and made a part hereof.

IN WITNESS WHEREOF, the undersigned owner(s) has (have) caused this Ratification and Consent Form to be signed as of the date first set forth below.

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***Please sign, date and return.***

|  |               |
|--|---------------|
| _____<br>Signature of Owner (title/position <i>if applicable</i> ) | _____<br>Date |
| _____<br>Signature of Owner (title/position <i>if applicable</i> ) | _____<br>Date |
| _____<br>Signature of Owner (title/position <i>if applicable</i> ) | _____<br>Date |

***\*ALL RECORD OWNERS OF THE LOT SHOULD SIGN THIS RATIFICATION AND  
CONSENT\****

***Mail, scan/email or hand-deliver the completed and signed Ratification and Consent Form to:***

*Kingsberry Homeowners Association, Inc.*

*P.O. Box 2672*

*Fairfax, VA 22031*

*Scan/email: [board@kingsberryhoa.org](mailto:board@kingsberryhoa.org)*

***Hand-deliver: Ron Acker 4662 Luxberry Drive, Fairfax, VA 22032***

## **Exhibit A to Ratification and Consent Form**

1. A new paragraph is inserted after the first paragraph in Section 7.8 immediately prior to Section 7.9 as follows:

*No Owner shall lease a Dwelling other than on a written form of lease requiring the lessee to comply with the Declaration, the Bylaws, the Rules and Regulations, the Architectural and Environmental Guidelines and other Association governing documents, and providing that failure to comply constitutes a default under the lease. Lease shall contain contact information for all tenants who are parties to the lease. The Board of Directors may require a standard form lease or lease addendum for use by Owners. Each Owner shall, promptly following the execution of any lease of a Dwelling, forward a conformed copy thereof to the Board of Directors.*

*The foregoing provisions of this subparagraph shall not apply to a Mortgagee or the Association in possession of a Lot as a result of a foreclosure or other judicial sale or as a result of any proceeding in lieu of foreclosure. In the event that the tenant of any Owner shall breach the lease by failing to comply with any terms of the Declaration, the Bylaws, the Rules and Regulations, the Architectural and Environmental Guidelines or other Association governing documents, the Board of Directors may require the Owner to secure the eviction of his tenant.*

2. A new Article 14 is inserted after Article 13 as follows:

*Notwithstanding anything to the contrary contained in this Declaration, in addition to all enforcement measures the Association is entitled to pursue in this Declaration and as a matter of law, and subject to applicable law, the Association may levy and collect monetary charges and fees from Owners and Community residents, including without limitation, late fees for unpaid assessments and administrative charges or any other fees imposed by the Association or Association managing agent, for or related to violations of the Declaration, the Bylaws, the Rules and Regulations, the Architectural and Environmental Guidelines or other Association governing documents or related to the operation and management of the Community.*

*Notwithstanding anything to the contrary contained in this Declaration, in the event the Association employs an attorney to enforce, by suit or otherwise, violations of the Declaration or the Rules and Regulations, by Owners or residents, the respective Owner or resident shall be personally responsible for and shall pay actual attorneys' fees as well as court costs incurred or paid by the Association even if a lawsuit has not been filed, in addition to any other amounts due to the Association against such Owner or resident. This provision shall not preclude the Association from collecting costs and attorneys' fees as set forth in Section 6.1 of this Declaration.*

*All such charges and fees shall become a continuing lien upon the Lot and shall have priority except as otherwise set forth in Section 6.4 of this Declaration. The Owner of the Lot shall, in addition, remain personally liable for the payment thereof. The purchaser of a Lot shall be jointly and severally liable with the selling Owner for all unpaid assessments, fees and charges against the latter.*

**NOTE:** The restrictions and rights contained in the foregoing paragraphs shall be binding on all Owners upon recordation of the Amendment to Declaration. Notwithstanding, Owners leasing Lots as of the time the Amendment to Declaration is recorded among the Fairfax County, Virginia land records are not required to utilize a standard form lease or addendum with respect to any lease currently in effect.

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