

# BRIAR COVE PAIRED COTTAGE ASSOCIATION

1101 Sheffield Avenue  
Dyer, IN 46311

August 17, 2023

## BRIAR COVE PAIRED COTTAGE ASSOCIATION

Dear Owners:

The Association is submitting the proposed amendment to Article XI, Section 8 of the Declaration of Covenants, Conditions, Restrictions and Easements for Briar Cove Paired Cottage Association ("Proposed Amendment") to the Association for consideration. A copy of the Proposed Amendment is enclosed for your review.

Due to the requirements set forth in the Declaration, the Board of Directors is required to conduct a vote of the Owners to determine whether the Owners wish to accept the Proposed Amendment. According to the Declaration, the Proposed Amendment must be approved by a vote of at least three-fourths (3/4) of the Owners. Furthermore, the Proposed Amendment must be approved by three-fourths (3/4) of the Board of Directors. If the Proposed Amendment is approved by both the Owners and the Board, a certified copy of the Proposed Amendment must be recorded with the Lake County Recorder's Office to become effective. If the Proposed Amendment is approved by the Owners and the Board, **the Proposed Amendment will be added to the Declaration.**

### **What Are the Next Steps?**

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All Owners are strongly encouraged to return their proxy as soon as possible. Voting is now open and all proxies must be received by the Association by **September 29, 2023**. Owners may return their completed proxies either by mail, electronic means (e.g., email, fax, etc.), or by providing a physical copy to a Board member or delivering to the management company. The Owners are also permitted to vote in person at the meeting of the Owners held on **November 16, 2023, at 7:00 pm at Crossroads Community Church.**

### **How Do I Vote?**

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Enclosed with this letter is a **Proxy**. Owners are encouraged to review in-depth the **Proposed Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements for Briar Cove Paired Cottage Association prior to voting**. Please follow these instructions when completing the proxy:

1. **Indicate your vote by marking only one of the two boxes on the proxy with an "X" or "√".**
2. Print the date on the line provided.
3. Print your address on the line provided.
4. Print your name on the line provided.
5. Sign on the line designated "Signature." If there are multiple owners of your Residential Unit, only one owner is required to sign the proxy.

Owners may return their Proxy by mail to:

Briar Cove Paired Cottage Association  
1101 Sheffield Avenue  
Dyer, IN 46311

Proxies sent through email or other electronic means can be sent to:

[service@resourcemanagementllc.com](mailto:service@resourcemanagementllc.com)

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Thank you,

Board of Directors  
Briar Cove Paired Cottage Association

**FIFTH AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS**

**FOR**

**BRIAR COVE PAIRED COTTAGE ASSOCIATION**

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The following Amendment amends the Declaration of Covenants, Conditions, Restrictions and Easements for Briar Cove Paired Cottage Association, recorded in the Office of the Recorder of Lake County, Indiana, on June 23, 2003, as **Instrument No. 2003-064808** (the "Declaration"), as amended.

According to the Declaration, this Amendment must be approved by a vote of at least three-fourths (3/4) of the Members. Furthermore, the Amendment must be approved by three-fourths (3/4) of the Board of Directors. A certified copy of the Amendment must be recorded with the Lake County Recorder's Office to become effective.

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**Proposed Amendment**

NOW, THEREFORE, Article XI, Section 8, titled "Leasing Restrictions" is deleted in its entirety and replaced with:

**Residential Unit:** As set forth in Article I, Section 15, "Residential Unit" shall mean one of the parcels and the zero lot line home located or to be located hereon, which is a part of the Property intended for independent ownership for use and occupancy as a single family residence. The boundaries of Residential Units shall be the lot lines for the parcels of the Property conveyed by Declarant to the Owners. For the purposes of this Declaration, a Residential Unit shall come into existence when substantially complete or upon the issuance of a certificate of occupancy by the appropriate agency of the Town of Schererville, Indiana, the Town of Dyer, Indiana or other local government entity.

**Owner-Occupancy Restriction:** The Residential Unit shall be used only for single-family residential purposes; provided, however, that such restriction shall not apply to any Residential Unit or part thereof or any other part of the Property at any time owned by the Association which constitutes a part of the Common Areas and upon which no Residential Unit is located.

Except as provided in this covenant, and to maintain the congenial and residential character of the Association, and for the protection and maintenance of property values by encouraging the maintenance, improvement, and updating of the Residential Units within the Association, each Residential Unit in the Association must be "Owner-Occupied", which means the Owner of the Residential Unit (i.e., the name on the deed) for a period of three (3) years.

The term "Owner-Occupied" does not include the representatives, employees, agents, or guests of a corporation, partnership, or other entity. In addition, Owner(s), or their agent or representative, cannot rent, lease, sell on contract, lease to own, or enter into any other form of agreement that

would allow a non-Owner to use a Residential Unit in the Association as their primary residence without the Owner also being present in the home.

This restriction is not intended to prevent residents whose primary residence is in the Association, but who are not the title Owner of the Residential Unit as the result of estate planning, such as placing the Residential Unit in a trust or a relative's name, reserving a life estate, or Medicaid planning, from living in the Association. In this situation, the residents and Owner will be considered in compliance with this covenant so long as the residents living in the Residential Unit are related to the Owner, do not pay rent or another form of compensation to the Owner in return for living in the Residential Unit, and the residents and Owner also follow all remaining restrictions in this provision.

**Rental Cap:** Whenever ten (10) or more of the Residential Units at the Association are being leased, no other Residential Units may be leased except as set forth below.

**Rental of the Entirety:** Any Owner renting or leasing a Residential Unit must rent or lease the whole home on the Residential Unit (no room or partial home rentals or leases) to a single family.

**Lease Terms:** All leases must be for a period of one (1) year without automatic renewal. Short-term or vacation rentals, and group, room, or partial home or property leases or rentals are strictly prohibited at any time.

**Leasing Requirements:** Any Owner must provide a copy of the Declaration to the tenant and inform the tenant that failure to comply with the covenants and restrictions in the Declaration is a default under the rental or lease agreement and must provide the Association with a copy of the rental or lease agreement (amounts redacted) within ten (10) days of execution of the rental or lease agreement.

**Leasing Application:** Any Owner who desires to lease a Residential Unit must apply to the Board of Directors prior to entering into a lease agreement and the Owner's name will be added to a waiting list to be maintained by the Board of Directors or managing agent.

At such time as less than ten (10) Residential Units at the Association are being leased, the Owner on the waiting list for the longest period shall have the first opportunity to lease a Residential Unit. That Owner will be given thirty (30) days to indicate whether the Owner intends to lease the Residential Unit. That Owner will then have an additional thirty (30) days to present a signed lease to the Board of Directors, otherwise the right to lease shall pass to the next Owner on the waiting list.

The Board of Directors shall promptly review the proposed lease agreement to verify that it complies with the standards as set forth herein. Further, all leases shall provide that any failure of the lessee to comply with the terms of this Declaration shall be a default under the lease. The Owner making any such lease shall not be relieved thereby from any of his/her obligations under the Declaration.

**Hardship Provision:** To meet special situations and to avoid undue hardship or practical difficulties, the Board of Directors may, but is not required to, grant permission to an Owner to lease a Residential Unit to a specified lessee for a lease term period on such reasonable terms as the Board of Directors may establish. Such permission may be granted by the Board of Directors

only upon written application by the Owner to the Board of Directors giving the reasons the Owner wishes to be considered for a hardship.

The Board of Directors shall respond to each application in writing within thirty (30) days of the submission thereof. All requests for extension of the original lease must also be submitted to the Board of Directors in the same manner as set forth for the original application. The Board of Directors has sole and complete discretion to approve or disapprove any Owner's application for a lease or extension of a lease based on hardship exemption. The Board of Director's decision shall be final and binding. Any lease approved by the Board of Directors shall be subject to the Declaration, By-Laws and Rules and Regulations governing the Association.

**Enforcement:** Any Residential Unit that is leased in violation of this Amendment and/or any Owner and/or tenant found to be in violation of the Declaration and/or Rules and Regulations adopted by the Board of Directors may be subject to any and all penalties set forth herein. The Board of Directors shall also have all rights and remedies, including but not limited to the right to maintain an action for possession against the Owner and/or their tenant, an action for injunctive and other equitable relief, or an action at law for damages. An Owner found to be in violation of the Declaration shall be responsible for the payment of all costs and attorneys' fees at the time they are incurred by the Association.

**Association Controlled Residential Units:** The Board of Directors of the Association shall have the right to lease any Association owned Residential Unit, or any Residential Unit which the Association has possession of pursuant to any court order and said Residential Unit shall not be subject to this Amendment.

**Application:** If a current Owner in the Association is renting or leasing a Residential Unit or selling a Residential Unit pursuant to a valid rental contract as of the Effective Date of this Amendment, then that Owner may continue to rent, lease, or sell the Residential Unit so long as the Owner continues to own the Residential Unit. However, once the current Owner transfers title of the Residential Unit to another Owner, ceases renting or leasing the Residential Unit, or sells the Residential Unit on contract, then the Residential Unit must be Owner-Occupied as provided in this Section 8.

**Effective Date.** This owner-occupancy restriction takes effect on the date this covenant amendment is recorded with the Lake County Recorder's Office. This provision does not apply to an institutional mortgagee of any Residential Unit in the Association which comes into possession of the Residential Unit due to foreclosure, judicial sale, or deed-in-lieu of foreclosure. Any Owner, or his tenant, lessee, or non-owner occupant, found to be in violation of any portion of this covenant by a court of competent jurisdiction will be permanently banned from renting or leasing his Residential Unit.

**[End of Proposed Amendment]**

## Simplified rental amendment

From: Jay popp (bcjayp@att.net)

To: jvp67@sbcglobal.net

Date: Sunday, October 15, 2023 at 01:17 PM CDT

RENTAL RESTRICTION AMENDMENT SIMIPLIED, these are the main rules for the amendment.

1. Owner Occupancy Restriction Summary: Home should be used only for single family purposes. Owner of the unit must reside in unit for a period of 3 years before requesting rental.
2. Rental Cap: No more than 10 units can be rented at a time.
3. Rental of the Entirety: A rental unit must rent or lease as a whole home, no room or partial home rentals.
4. lease Terms: Lease can only be for 1 year with no automatic renewal. After 1 year a new lease will need to be signed and submitted.
5. Leasing Requirements:
  - a. Governing Documents must be provided to the tenant at the signing of the lease.
  - b. Lease must be submitted to the Association with 10 days of the signing of the lease agreement.
6. Leasing Application: Owners wanting to lease or rent their unit must apply to the Board of Directors prior to entering into an agreement with tenant and will be placed on a waiting list. The board of directors will review the proposed lease agreement to verify that it complies with the standards.

Thank you,

**Suzanne**

**Senior Community Association Manager**

Sent from Jay's iPhone

**BRIAR COVE PAIRED COTTAGE ASSOCIATION**  
**PROXY**

I am the Owner of the property listed below in Briar Cove Paired Cottage Association (the "Association") and I appoint, \_\_\_\_\_, or if left blank, a **Board member**, as my proxy holder to attend the Meeting of the Association to vote on the proposed amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Briar Cove Paired Cottage Association. The proxy holder named above has the authority to cast my vote and act for me the same as if I were personally present at the Meeting as indicated below:

<p>"YES" means you think the Amendment <i>should</i> be approved. "NO" means you think the Amendment <i>should NOT</i> be approved.</p>	<u>YES</u>	<u>NO</u>
<p>Please mark with either an X or ✓ in the box to the right of each line item in the corresponding box to indicate your vote on whether the following Proposed Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements for Briar Cove Paired Cottage Association should be approved:</p>		
<p>Should the Proposed Amendment to Article XI, Section 8 (Leasing Restrictions) be approved?</p>		

This voting is being done during a Special Meeting held on **November 16, 2023**, at **7:00 pm** at **Crossroads Community Church**. According to Article XIII of the Declaration, the proposed amendment must be approved by a vote of at least three-fourths (3/4) of the Owners. Furthermore, the Proposed Amendment must be approved by three-fourths (3/4) of the Board of Directors. If the Proposed Amendment is approved by both the Owners and the Board, a certified copy of the Proposed Amendment must be recorded with the Lake County Recorder's Office to become effective. According to Article II, Section 11 of the Bylaws of Briar Cove Paired Cottage Association, Inc., a meeting of the Owners requires a quorum of at least one-third (1/3) of the Owners in person or by proxy. There are 272 Residential Units in the Association, which means that at least 204 Owners must vote to approve the Amendment.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

"I affirm, under penalties of perjury, that by signing this proxy I have the authority to grant this proxy to the individual named herein to exercise this proxy."

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Owner's Signature

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Date

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Name of Owner

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Full Address of Owner's Property  
(Street, City, State, Zip Code)

***EACH LINE OF THIS PROXY MUST BE COMPLETED AS INDICATED UNDER EACH LINE TO BE VALID. THIS INCLUDES THE FULL ADDRESS OF THE PROPERTY WITHIN THE BRIAR COVE PAIRED COTTAGE ASSOCIATION, INCLUDING THE CITY, STATE, AND ZIP CODE.***

The Owner appointing this proxy may revoke this proxy at any time in person or by issuing a new proxy at a later date or time. This proxy is valid only for the meeting for which it is given and any lawful continuation thereof. In no event is the proxy valid for more than eighteen (18) months from the date this proxy was signed.