

In Re: * IN THE
BRIGHTON WEST CONDOMINIUM, II * CONSUMER PROTECTION DIVISION
COUNCIL OF UNIT OWNERS * OFFICE OF THE
P.O. Box 3177 * ATTORNEY GENERAL
Gaithersburg, Maryland 20885 * OF MARYLAND

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AMENDED ASSURANCE OF DISCONTINUANCE

This Assurance of Discontinuance (“Assurance”) is being entered into between the Consumer Protection Division of the Office of the Attorney General (“Division”) and Brighton West Condominium II Council of Unit Owners (“Brighton West”). The Division and Brighton West agree as follows:

PARTIES

1. The Division is responsible for enforcement of Maryland consumer protection laws, including the Maryland Consumer Protection Act (“CPA”), Md. Code Ann., Com. Law (“CL”) §§ 13-101 through 13-501 and the Maryland Condominium Act (“MCA”), Md. Code Ann., Real Prop. (“RP”) §§ 11-101 through 11-143.

2. Brighton West is the unincorporated legal entity governing a certain residential condominium, located in Montgomery County, Maryland, known as the Brighton West Condominium II, said Council of Unit Owners being comprised of all unit owners in Brighton West Condominium II. Brighton West was established upon the recordation of a Master Deed and By-Laws made by SEVENTY-S ASSOCIATES, a Maryland limited partnership, dated September 27, 1971 and recorded in Liber 4128, Folio 729 *et seq.* among the Land Records of Montgomery

County, Maryland, as amended by instrument dated October 5, 2017 and recorded in Liber 4133, Folio 324 *et seq.* among the aforesaid Land Records, as further amended by instrument dated April 20, 1976 and recorded in Liber 4781, Folio 846 *et seq.* among the aforesaid Land Records, as further amended by instrument dated May 28, 2010 and recorded in Liber 39391, Folio 238 *et seq.* among the aforesaid Land Records, as further amended by instrument dated July 8, 2010 and recorded in Liber 40120, Folio 471 *et seq.* among the aforesaid Land Records, and pursuant to the Plat of “BRIGHTON WEST CONDOMINIUM II,” recorded in Condominium Plat Book 3 at Plats 250 through 256 inclusive, and by amended plat thereof recorded in Condominium Plan Book 100 at Plat 1679.

THE DIVISION’S ALLEGATIONS

4. The MCA provides for minimum standards for the protection of consumers.

5. Acting through its officers and Board of Directors, Brighton West is obligated to comply with all provisions of the MCA. The failure to do so is a violation of the MCA that affects owners of condominium units and is subject to the enforcement duties and powers of the Division pursuant to the CPA.

6. The Division alleges that in 2015, 2017, 2018, 2019, and 2020 Brighton West engaged in acts that violate the MCA by:

a. failing to provide notice of and hold elections of its Board of Directors at an open meeting as required by RP § 11-109;

b. failing to provide notice of and hold an open annual meeting as required by RP § 11-109;

c. failing to submit to the unit owners an annual proposed budget at least thirty (30)

days prior to its adoption and failing to submit the adopted budget to unit owners not more than thirty (30) days after the meeting at which the budget was adopted as required by RP § 11-109.2;

d. failing to provide a copy of the books and records, including financial statements, of the condominium, when requested in writing by unit owners, as required by RP § 11-116; and

e. infringing on rights of unit owners for alleged violations of the Declaration, By-Laws, and/or Rules and Regulations of the condominium without following the dispute settlement procedure required by RP § 11-113.

CEASE AND DESIST PROVISIONS

7. For purposes of resolving the dispute concerning the above allegations, Brighton West agrees to do as is set forth below.

8. The terms of this Assurance shall apply to the Brighton West Condominium II Council of Unit Owners.

9. As required by § 11-109 of the MCA and in accordance with Brighton West's By-Laws, Brighton West shall provide notice of, and hold an election at, an open annual meeting to elect members of Brighton West's Board of Directors within ninety (90) days of the date of this Assurance, and on an annual basis thereafter. Following the election of the Board of Directors, within the period provided by Brighton West's By-Laws, the Board of Directors shall elect a Chairman and a Vice Chairman as well as Brighton West's principal officers including President, Vice President, Secretary, Treasurer, and such other officers as in the Board of Directors' judgment may be necessary or desirable. For five (5) years from the date of this Assurance, Brighton West shall produce to the Division its calls for nominations, notices of meeting sent to unit owners, and

the meeting minutes reflecting the election results, within thirty (30) days of the date that each election is held.

10. As required by § 11-109 of the MCA and in accordance with Brighton West's Bylaws, Brighton West shall provide notice to, and hold an open meeting of, all unit owners on an annual basis at which the agenda is open to, and unit owners may comment on, any matter relating to the condominium. For five (5) years from the date of this Assurance, Brighton West shall provide the Division a copy of the notices of meeting and the minutes of the annual meetings within thirty (30) days after the meeting has been conducted.

11. Brighton West's Board of Directors shall hold open meetings, except for the purposes for which a closed meeting is permitted under § 11-109.1(a) of the MCA. As required by § 11-109.1(b) of the MCA, for any closed meetings held by Brighton West's Board of Directors, Brighton West shall report, in the minutes of meetings of the next meeting of the Board of Directors, the time, place, and purpose of the closed meeting, the record of the vote of each board member by which any meeting was closed, and the authority under which the meeting was closed.

12. As required by §11-109.2 of the MCA and in accordance with Brighton West's By-Laws, Brighton West shall submit to the unit owners an annual proposed budget at least thirty (30) days prior to the commencement of each fiscal year or its adoption. To effectuate compliance with this section of the MCA, Brighton West shall submit the proposed budget to each unit owner by electronic transmission, by posting on the condominium's home page, if any, and, if any newsletter is circulated within two (2) months prior to the commencement of the fiscal year or its adoption, by inclusion in in Brighton West's newsletter.

13. As required by § 11-109.2 of the MCA and in accordance with Brighton West's By-Laws, Brighton West shall submit to unit owners the adopted budget not more than thirty (30) days after the meeting at which the budget was adopted. To effectuate compliance with this section of the MCA, Brighton West shall submit the adopted budget to each unit owner by electronic transmission, by posting on the condominium's home page, if any, and, if any newsletter is circulated within thirty (30) days following adoption of the annual budget, by inclusion in Brighton West's newsletter.

14. As required by § 11-116 of the MCA and in accordance with Brighton West's By-Laws, Brighton West shall respond to requests for documents from unit owners in a timely and complete manner. To effectuate compliance with this section of the MCA, Brighton West shall maintain, for a period of at least five (5) years, a record of all requests in a log or database established for the purpose of tracking requests for documents from unit owners. The items to be maintained in the log or database shall include, at a minimum, the following: (i) the name of the requestor; (ii) the date the request was made; (iii) the name of the person responding to the request; (iv) the date of any response; and (v) the charge, if any, for providing documents in response to the request.

15. Brighton West agrees to permit distribution of written information and materials regarding the operation of the condominium in any manner or place that the governing body distributes written information or materials in accordance with § 11-111.3 of the MCA. Each resident's request for inclusion of written materials shall be treated equally.

16. Brighton West shall not impose a fine, suspend voting, or otherwise infringe upon any other rights of unit owners or other occupants for any alleged violation of the Declaration, By-Laws, and/or Rules and Regulations unless Brighton West follows the dispute settlement procedure

set forth in § 11-113 of the MCA by:

(a) serving on the alleged violator a written demand to cease and desist from the alleged violation that specifies: (i) the alleged violation, (ii) the action required to abate the violation, and (iii) a time period, not less than ten (10) days, during which the violation may be abated without further sanction (if the violation is a continuing one) or a statement that any further violation of the same rule may result in the imposition of sanction after notice and hearing (if the violation is not a continuing one);

(b) within twelve (12) months of the demand, if the violation continues past the period allowed in the demand for abatement without penalty or if the same rule is violated subsequently, by serving on the alleged violator a written notice of a hearing, which contains: (i) the nature of the alleged violation, (ii) the time and place of the hearing, which time may be not less than ten (10) days from the giving of the notice, (iii) an invitation to attend the hearing and produce any statement, evidence and witnesses on his or her behalf, and (iv) the proposed sanction to be imposed; and

(c) holding a hearing before Brighton West's Board of Directors in executive session pursuant to the written notice at which the alleged violator has a reasonable opportunity to be heard, including the right to present evidence and present and cross-examine witnesses. Following the hearing, Brighton West's Board of Directors shall place into the minutes of the meeting: (i) proof of notice and the invitation to be heard; (ii) a written statement of the result of the hearing; and (iii) the sanction, if any, imposed.

17. Brighton West shall not adopt or enforce any rule or regulation that would constitute an impermissible taking of a unit owner's property interest in any General Common Element including, but not limited to: (a) revoking a unit owner's parking privileges; or (b) prohibiting unit

owners and their invited guests from engaging in leisure activities in the front and backyards of their units or other common areas of the condominium so long as such leisure activities do not unreasonably interfere with the peace and enjoyment of the owners of the other units of the condominium.

18. The Division and Brighton West acknowledge and agree that this Assurance represents a full and final settlement of the violations of the MCA that are alleged herein, and it is understood and agreed that the entering of this Assurance is not to be construed as an admission of any violation of the MCA, or an admission of any of the Division's allegations.

RESTITUTION

19. Brighton West shall pay restitution to the Division in an amount equal to the sum of all fines Brighton West assessed and/or collected from unit owners, after January 1, 2015 and prior to the date of this Assurance, without following the procedure required under RP § 11-113, less any amounts Brighton West can demonstrate have been refunded to unit owners. Unit owners who paid fines that Brighton West assessed against the unit owners after January 1, 2015 and prior to the date of this Assurance without following the procedure required under RP § 11-113, and that Brighton West has not previously refunded, are entitled to receive restitution under this Assurance.

20. Brighton West shall distribute the restitution owed under this Assurance within thirty (30) days of the date of this Assurance by (i) waiving any fines that it assessed against any unit owners after January 1, 2015 without following the procedures required under RP § 11-113 that remain unpaid and (ii) refunding to any unit owners the fines that they paid after January 1, 2015, that were assessed without following the procedure required under RP § 11-113.

21. Within sixty (60) days after the date of this Assurance, Brighton West shall provide

the Division with a list of all unit owners against whom Brighton West assessed fines and from whom Brighton West collected fines since January 1, 2015 without following the procedure required under RP § 11-113. For each unit owner, Brighton West shall provide the following information in the form of a spreadsheet, with each item in a separate field:

- (a) the unit owner's first name;
- (b) the unit owner's last name;
- (c) the unit owner's last known address;
- (d) the unit owner's last known city, state, and postal code;
- (e) the unit owner's last known telephone number;
- (f) the consumer's last known email address;
- (g) the amount of the fine assessed against the unit owner;
- (h) the amount of the fine paid by the unit owner; and
- (i) the amount of any refund(s) provided to the unit owner by Brighton West (either by direct payment or by waiving any balance that remained owed).

Brighton West shall provide the information required under this paragraph in both electronic and paper formats.

PENALTIES

22. Brighton West Condominium II Council of Unit Owners shall pay the Division a civil penalty in the amount of Five Thousand Dollars (\$5,000.00) for the violations alleged herein, but the payment shall be held in abeyance and the entire amount of the civil penalty shall be waived by the Division provided Brighton West remains in full compliance with the terms of this Assurance for a period of five (5) years.

DISPUTES

23. The Chief of the Division or his designee shall resolve any disputes that arise concerning this Assurance of Discontinuance and may enter any supplemental orders needed to effectuate its purpose.

ENFORCEMENT

24. Brighton West understands that this Assurance of Discontinuance is enforceable by the Consumer Protection Division pursuant to the Consumer Protection Act and that any violation of this Assurance of Discontinuance is a violation of the Consumer Protection Act.

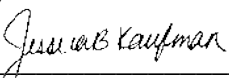
25. Brighton West agrees that any future violations of this Assurance of Discontinuance shall constitute a subsequent violation of the Consumer Protection Act for purposes of § 13-410(b).

AGREED:

Brian Frosh
Attorney General of Maryland
200 St. Paul Place
Baltimore, MD 21202

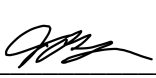
Brighton West Condominium II Council Of Unit Owners
P.O. Box 3177
Gaithersburg, Maryland 20885

By:



Jessica B. Kaufman
Director – Consumer Protection
Division Housing Unit

By:


 Joy Liang

Name: Joy-Liang Machado
Title: President

September 8, 2021
Date

August 25, 2021
Date

I, Grace Martinez, Secretary for the Board of Directors of Brighton West Condominium II Council of Unit Owners hereby affirm that the approval to enter this Assurance was duly authorized by a majority of the Board of Directors on August 25, 2021.

By: 

Secretary, Brighton West Condominium II Council of Unit Owners