

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2010 – 84**

3 **INTRODUCED BY:**

4
5 Councilor Calvert

6 Councilor Romero

7 Councilor Bushee

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9
10 **A RESOLUTION**

11 **URGING THE NEW MEXICO STATE LEGISLATURE TO ADOPT AN AMENDMENT**
12 **TO THE NEW MEXICO CONDOMINIUM ACT TO REQUIRE THAT, IF REQUIRED**
13 **BY LOCAL ORDINANCE, CONDOMINIUM DECLARATIONS BE ACCOMPANIED**
14 **BY WRITTEN CONFIRMATION FROM LOCAL ZONING JURISDICTIONS THAT**
15 **THE DECLARATIONS COMPLY WITH LOCAL ZONING ORDINANCES AND**
16 **REGULATIONS.**

17
18 **WHEREAS**, New Mexico state law currently requires condominiums to comply with
19 local zoning ordinances and subdivision regulations (Section 47-7A-6 NMSA 1978); however,
20 condominium declarations may be, and often are, recorded at the offices of County Clerks
21 without the knowledge, review, or approval of local zoning officials; and

22 **WHEREAS**, recordation of declarations that create condominiums that are in violation
23 of local zoning ordinances and subdivision regulations thereby create condominiums that are in
24 violation of state law (Section 47-7A-6 NMSA 1978); and

25 **WHEREAS**, creation of illegal, non-conforming condominiums is a serious problem for

1 local jurisdictions and for unsuspecting home buyers, real estate agents, title insurance
2 companies, and attorneys who are often unaware that a condominium is illegal or that future
3 building permits and zoning approvals for these properties may be prohibited due to their illegal
4 non-conformities; and

5 **WHEREAS**, developments that propose the condominium form of ownership will not in
6 any way be discriminated against but rather will be subject to the same local zoning review and
7 approval as are all other developments that require recordation; and

8 **WHEREAS**, the proposed amendment to the Condominium Act would apply only where
9 local ordinances have been adopted that require written confirmation from local zoning officials
10 to accompany condominium declarations.

11 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
12 **CITY OF SANTA FE** that the Governing Body urges the New Mexico State Legislature to
13 adopt the attached amendment to the New Mexico Condominium Act (Exhibit A) to require
14 confirmation from the local zoning official that a condominium declaration complies with local
15 zoning ordinances and subdivision regulations as required in Section 47-7A-6 NMSA 1978.

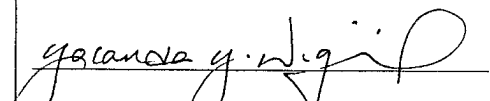
16 **AND BE IT FURTHER RESOLVED** that the City Clerk is directed to give a copy of
17 this resolution to the city's lobbyist and the city's state legislative delegation.

18 PASSED, APPROVED, and ADOPTED this 13th day of October, 2010.

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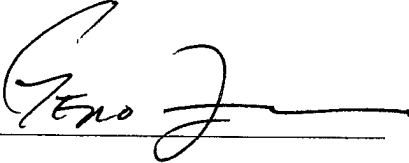
21 DAVID COSS, MAYOR

22 ATTEST:

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25 YOLANDA Y. VIGIL, CITY CLERK

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APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "Geno Zamora", written over a horizontal line.

GENO ZAMORA, CITY ATTORNEY

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HOUSE BILL ____

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

AN ACT

RELATING TO PROPERTY LAW; AMENDING THE CONDOMINIUM ACT TO REQUIRE
CONFIRMATION THAT A CONDOMINIUM DECLARATION COMPLIES WITH LOCAL
ZONING AND SUBDIVISION ORDINANCES AND REGULATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 47-7B-9 NMSA 1978 (being Laws 1982,
Chapter 27, Section 21) is amended to read:

47-7B-9. Plats and plans.--

- A. Plats and plans are a part of the declaration.
Separate plats and plans are not required by the Condominium Act
if all the information required by this section is contained in
either a plat or plan. Each plat and plan shall be clear and
legible and contain a certification that the plat or plan
contains all information required by this section.

- B. Each plat shall show:

- 1 (1) the name of the condominium and a survey or
2 a general schematic map of the condominium;
- 3 (2) the location and dimensions of all real
4 estate not subject to development rights, or subject only to the
5 development right to withdraw, and the location and dimensions of
6 all existing improvements within that real estate;
- 7 (3) a legally sufficient description of any
8 real estate subject to development rights, labeled to identify
9 the rights applicable to each parcel;
- 10 (4) the extent of any encroachments by or upon
11 any portion of the condominium;
- 12 (5) to the extent feasible, a legally
13 sufficient description of all easements serving or burdening any
14 portion of the condominium;
- 15 (6) the location and dimensions of any vertical
16 unit boundaries not shown or projected on plans recorded pursuant
17 to Subsection D of this section and that unit's identifying
18 number;
- 19 (7) the location with reference to an
20 established datum of any horizontal unit boundaries not shown or
21 projected on plans recorded pursuant to Subsection D of this
22 section and that unit's identifying number;
- 23 (8) a legally sufficient description of any
24 real estate in which the unit owners will own only an estate for
25 years, labeled as "leasehold real estate";

1 (9) the distance between noncontiguous parcels
2 of real estate comprising the condominium;

3 (10) the location and dimensions of limited
4 common elements, other than the limited common elements described
5 in Subsections B and D of Section 14 of the Condominium Act;

6 **[and]**

7 (11) in the case of real estate not subject to
8 development rights, all other matters customarily shown on land
9 surveys, and

10 (12) if required by local ordinance, written
11 confirmation from the local zoning official that the condominium
12 complies with local zoning and subdivision ordinances or
13 regulations as required in Section 47-7A-6 NMSA 1978.

14 C. A plat may also show the intended location and
15 dimensions of any contemplated improvement to be constructed
16 anywhere within the condominium. Any contemplated improvement
17 shown shall be labeled either "MUST BE BUILT" or "NEED NOT BE
18 BUILT." Any certification of a plat required by this section
19 shall be made by a licensed surveyor.

20 D. To the extent not shown or projected on the
21 plats, plans of the units must show or project:

22 (1) the location and dimensions of the vertical
23 boundaries of each unit and that unit's identifying number;

24 (2) any horizontal unit boundaries, with
25 reference to an established datum, and that unit's identifying
26 number; and

1 (3) any units in which the declarant has
2 reserved the right to create additional units or common elements,
3 identified appropriately.

4 E. Unless the declaration provides otherwise, the
5 horizontal boundaries of part of a unit located outside of a
6 building have the same elevation as the horizontal boundaries of
7 the inside part and need not be depicted on the plats and
8 plans.

9 F. Upon exercising any development right, the
10 declarant shall record either new plats and plans necessary to
11 conform to the requirements of Subsections A, B and D of this
12 section or new certifications of plats and plans previously
13 recorded if those plats and plans otherwise conform to the
14 requirements of those subsections.

15 G. Any certification of a plan required by this
16 section shall be made by a licensed surveyor, architect or
17 engineer.