The Condominium Act, Cap 224A of the Laws of Barbados:

The Declaration

The Condominium Act, Cap. 224 of the laws of Barbados (the "**Act**"), establishes the legal framework for the creation and governance of condominiums. A key element of this framework is the Declaration, which is the official document that brings a property under the scope of the Act. This Declaration is crucial because it outlines the specific details and legal descriptions of the property, units, and common areas, ensuring that all unit owners have clear rights and responsibilities. This discussion highlights provisions from the Act which regulate the Declaration.

Contents of Declarations:

Section 4 of the Act outlines the essential components that must be included in the Declaration to establish a condominium scheme. This includes:

- a statement of the interests the person executing the document has in the property.
- a declaration that the property is subject to the relevant act.
- a detailed description of the property for precise identification, including a survey plan certified by a licensed surveyor.
- a description of the building, including its location, number of storeys, basements, cellars, units, and construction materials.
- a description of each unit with reference to its number or other symbols, location, approximate floor area, and boundaries.
- copies of the drawings and plans that meet legal requirements as set out in section 6 of the Act.
- a statement of the covenants, conditions, and restrictions affecting the use, occupancy, and transfer of each unit.
- a schedule outlining the unit entitlement of each unit.
- a description of the location, area, limits, and boundaries of the common property.
- the name of the body corporate, appropriate number of the plan along with registration details and relevant corporate documents.
- the by-laws applicable to the property.
- any additional matters related to the property, subject to approval by the Registrar.
- the process and conditions under which the instrument may be amended by the unit owners.

The Act also outlines that the limits and boundaries of each unit are typically defined by reference to floors, walls, and ceilings. Unless otherwise specified in the Declaration, the common boundary of a unit with another unit or with the common property is the centre of the floor, wall or ceiling.

The unit entitlement of a unit is required to be expressed as a fraction or percentage in the Declaration and fixed. It is determined either by the unit's estimated value relative to the total estimated value of all units, or by the unit's floor area relative to the total floor area of all units. This calculation is required to reflect any substantially exclusive advantages which may be enjoyed by one or more but not all unit proprietors in any part of the common property.

The required drawings and plans must be a complete set for each floor, basement, and cellar of the building. They must describe each unit by reference to its layout, location, designation, and approximate dimensions. Additionally, these documents need to be prepared and certified by a registered professional and must bear the approval of the Chief Town Planner, who will also certify that they are true and accurate copies of the approved drawings and plans.

Upon satisfying the above requirements and registration of the Declaration and payment of the requisite fees with the Registrar of Titles at the Land Registry, the Declaration becomes binding on all unit owners. Any amendments to the Declaration must comply with statutory requirements and be lodged at the Land Registry.

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The Condominium Act, Cap 224A of the Laws of Barbados:

The Declaration, Cont'd

Overall, the Act provides a detailed approach to creating a Declaration for condominium schemes. The careful attention to detail in the Declaration also underscores its critical role in maintaining the functionality of condominium ownership and management.

The Effect of the Declaration:

Upon the registration of the Declaration, each unit, along with its undivided share in the common property, is recognized as an interest in land. This means that the ownership and rights associated with each unit are legally recognized as real property. As a result, these units can be sold, transferred, or managed under the same legal framework as traditional land and real estate properties.

Unit Deed:

Every instrument relating to a unit, executed after the date of recording the relevant Declaration, must include specific details to ensure proper documentation and identification. This includes a comprehensive description of the property, referencing to the folios where in the Declaration is registered and must specify the unit number or symbol and any other pertinent data necessary for accurate identification of the unit. Additionally, it must also include a statement regarding the user of the unit and outline any covenants, conditions, and restrictions that apply. The unit entitlement must also be clearly stated, reflecting the unit's share in the common property and its associated rights and obligations.

When an instrument is executed after the Declaration is recorded, it must capture specific details outlined in the Declaration, such as unit number or symbol, covenants, conditions, and restrictions. By incorporating these requirements into the instrument, the Declaration provides a framework that ensures consistency and compliance across all transactions involving the units. This means that any agreements, or changes related to the unit must align with the stipulations set out in the Declaration. For example, if the Declaration imposes restrictions on alterations to a unit or defines certain maintenance responsibilities, these must be reflected in any subsequent legal documents to ensure that all parties are aware of and adhere to these rules. This ensures that the rights and responsibilities of unit owners are clearly defined and legally enforceable, which helps to prevent disputes. By ensuring that all covenants, conditions, and restrictions are accurately documented and referenced, the Declaration plays a pivotal role in laying the foundation of the details that should be reflected in any secondary instrument to maintain the integrity of the condominium scheme.

Conclusion:

In conclusion, the Declaration serves as a foundational document for the establishment and governance of condominium schemes. By mandating a comprehensive outline that includes property descriptions, unit specifications, and legal stipulations, it ensures clarity and transparency for all parties involved in the sale or purchase of a unit under the scheme. The Declaration's detailed requirements, such as the inclusion of certified plans, unit entitlements, and by-laws, not only delineate the physical and legal attributes of each unit but also safeguard the interests of unit owners and the body corporate. The binding nature of the Declaration upon registration enforces a structured and legally recognized framework, enabling the smooth transfer, sale, and management of units. Ultimately, the Declaration facilitates a well-organized condominium system, ensuring that the rights and responsibilities of unit owners are clearly defined and protected under the law.

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