

# *Moreland Courts Condominium Association*

## **Patio & Common Element Policy and Procedure**

There has been a general policy of acceptance and approval of patios at Moreland Courts since it first became a condominium in 1978. The Amended Declaration classifies building rooftop areas as Exclusive Use Areas and states that the Board has the authority to grant an exclusive but revocable license to a Unit Owner subject to certain terms and conditions (Article VI, Sec. 3, pg. 35-6). Given the level of interest and activity concerning patios, there is a need to establish a consistent and comprehensive policy.

Historically, the use of patio space has been granted to a Unit Owner who has rooftop space either adjoining or in close proximity to their unit. To offer an equitable opportunity for owners to create and utilize a patio, the first Owner within a building to present a plan that includes a preliminary design and both an approved method of access to the patio and to bring utilities to the space, will be given priority. A deposit, to be determined, will also be required. All new patios are subject to available space. Future plans for the West garage may preclude further patio allotments on that roof. Additionally, no more than two owners may apply together to share a roof top patio space due to City of Cleveland Code requirements.

Except for two units (13415-8G4 and 13515-5B) which have special rights outlined in the Amended Declaration (pg.11), the Board enters into a License Agreement with Unit Owners who are patio users. License Agreements are specific to current Unit Owners and do not transfer with the sale of the Unit. New Unit Owners who wish to become patio users must enter into a License Agreement. A rental fee is charged.

In the event a unit owner has been granted access and improved a portion of a roof top Common Element through a written Lease Agreement with the Association, the Board will authorize the unit owner to offer a Right of First Refusal, with no consideration, a right to access and enter into a lease with the Association for the common element in conjunction with the potential sale of the Unit.

If the prospective Buyer does not exercise the Right of First Refusal, the Association may require the owner to remove any improvement to the Common Element at the unit owner's expense and prior to the closing of the sale of the Unit.

### **The Process for Approval of a Patio is as follows:**

1. The Board conditionally accepts or rejects a proposed site and proposed user(s) for a new or existing patio.
2. After a proposal receives conditional approval, notice is given to all Unit owners via the next monthly statement. It is the responsibility of the patio proposer(s) to give a brief, written summary of the proposal to Management, who will then distribute this summary to all affected Owners.
3. All Patio design plans must be submitted to and reviewed by the MCCA General Manager and the Association architectural and engineering professionals for:
  - Aesthetic compatibility with the historic character of Moreland Courts
  - Minimal interference with the privacy of adjacent and/or other affected Unit owners

- Adherence to all building and safety codes, and the MCCA Specifications Manual
- Evaluation of potential nuisance issues or future problems
- Adherence to governing document references to the construction of roof top patios

**In making a final decision on a patio proposal, the Board will:**

- Consider any objections or endorsements from affected owners
- Review the recommendations from Management, and the MCCA architectural and engineering professionals

**Once final approval has been granted, Unit Owners wishing to construct a new patio space must observe the following and sign a *Patio Licensing Agreement*:**

- All patios must adhere to both the *MCCA Remodeling and Contractor's Policies and Procedures*. Any subsequent changes must also adhere to these policies.
- The cost to build, maintain and/or bring the roof patio up to current requirements is the responsibility of the patio user.
- Management has authority to determine scheduling of patio installations.
- All building roofs must be properly protected, and able to be accessed for periodic inspection and/or repair.
- Any cost incurred by the Association to move a roof patio for any reason deemed necessary by the Association (roof repairs, inspection, etc.) shall be the responsibility of the patio user.
- Patio users are responsible for repair costs due to damage caused by their patio to any or all Common Areas/Elements or Units.
- Insurance, both personal liability and property damage coverage must be maintained, as specified in the License Agreement.

**The following apply to all patio owners:**

- The Owner agrees to an Association approved screening fence facing any other MCCA building for privacy and sound abatement.
- The Board reserves the right to require an Association approved awning for privacy or sound abatement.
- Dogs are not to be left on the patio when the Unit is unattended
- Smoking is not allowed on patios.
- Noise is limited to the hours before 10:00 PM.
- The Board has authorized Management to implement a permit procedure whereby the Owner may occasionally entertain on the patio after 10:00 PM. Adjacent Unit Owners will be notified of this exception.
- A rental fee, set by the Board, is charged.

**Multi-User Patios:**

A multi-user patio is approved following the same process and criteria as a private one. If one of the users sells their Unit, a new Patio Licensing Agreement must be executed for the remaining owners and any new owner added with agreement by the remaining owners.

**Revised May 7, 2018 - The Board reserves the right to revise this policy at any time in the future.**