

OTS 10.3

10.3 CONDOMINIUMS-DECLARATION

Problem A:

Must the undivided interests in the common elements appertaining to each unit that are set forth in the declaration total one (or one hundred percent)?

Standard A:

Yes

Comment A:

R.C. 5311.04 provides that the common elements shall be owned by the unit owners as tenants in common and shall remain undivided, that the undivided interest of the units in the common elements shall be those interests set forth in the declaration, and that such interests shall not be altered except by an amendment to the declaration approved by all of the unit owners affected. If such total of such interests equals less than one (or one hundred percent), an interest in the common elements would remain in the declarant after he no longer owned any of the units. If the total of such interests equals more than one (or one hundred percent), it would be impossible to determine the respective interest of the unit owners in the common elements in the absence of a corrective amendment unanimously approved by the unit owners.

(Effective November 13, 1976) (Amended May 13, 2009 to reflect changes made by the 2004 amendment to the condominium statute.)