WAKE COUNTY, NC 235
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
11/19/2013 AT 14:15:59

BOOK:015507 PAGE:00681 - 00687

Prepared by and return to:
Tina Frazier Pace
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NORTH CAROLINA

WAKE COUNTY

FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR DEVONSHIRE SUBDIVISION

THIS FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR DEVONSHIRE SUBDIVISION, is made this the 12 day of November, 2013 by the Devonshire Homeowners Association of Wake County, Inc., a N.C. non-profit corporation (hereinafter referred to as the "Association")..

WITNESSETH:

WHEREAS the Declaration of Covenants, Conditions and Restrictions for Devonshire Subdivision was recorded in Book 10910, Page 1655, in the Wake County Registry (hereinafter "Covenants"); and

WHEREAS Section 11.4 of the Covenants provides in part that "The Association .... may amend this Declaration, by the affirmative vote or written agreement of the Owners to whom not less than seventy-five percent (75%) of all of the votes in the Association are allocated in accordance with Section 4.4. and Section 4.5 above. Any amendment must be recorded in the Wake County Register of Deeds"; and

WHEREAS, the Association held a Special Meeting on October 19, 2013 for the purpose of voting upon an Amendment to the Covenants. That further, the Association sent "written notice of the proposed amendment ... to every Member at least thirty (30) days in advance" of this Special Meeting in accordance with Section 11.4 of the Covenants; and

WHEREAS, members representing more than 75% of all of the votes in the Association voted in favor of the following amendments; and

NOW, THEREFORE, in consideration of the foregoing, the Declaration of Covenants, Conditions and Restrictions for Devonshire Subdivision is hereby amended as follows:

1) By deleting Section 4.5.1 and inserting the following Section 4.5.1 as follows:

4.5.1 Every person, group of persons, or entity which is a record Owner of a fee interest in any Lot shall automatically be a Class A Member of the Association except the Declarant during the Development Period; provided, however, that any such person, group of persons or entity who holds such interest solely as security for the performance of an obligation shall not be a Member. A Class A Membership shall be appurtenant to and may not be separated from Ownership of Any Lot. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. In the event that more than one person, group of persons or entity is the record Owner of a fee interest in any Lot, then the vote for the membership appurtenant to such Lot portion shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In the event agreement is not reached, the vote attributable to such Lot shall not be cast.

2) By deleting Section 5.2 and inserting the following Section 5.2 as follows:

Section 5.2 Special Assessment. In addition to levying Regular Assessments, and to the extent that the reserve fund is insufficient, the Board of Directors may levy Special Assessments to construct, repair, structurally alter, or replace improvements which are a part of the Common Areas. Until the expiration of the Development Period, or the date on which Declarant no longer owns a Lot, whichever is earlier, Declarant shall be one of the consenting Members, or the capital improvement shall not be made. The Board of Directors shall calculate each Lot's proportionate share of the Special Assessment for the capital improvements, and shall give the Lot Owner(s) written notice of the proportionate share and of the date(s) that the Special Assessment is due and payable.

3) By deleting Section 5.3 and inserting the following Section 5.3 as follows:

Section 5.3 Working Capital Assessment. At the time a certificate of occupancy is issued upon a Lot, the Lot Owner shall pay to the Association the sum of $250.00 as his or her initial contribution to the working capital of the Association. This sum is not an advance payment of the monthly Regular Assessment, rather the sum is

allocated to a working capital fund to meet unforeseen expenditures and operating expenses or to purchase any additional equipment or services.

4) By deleting Section 5.5.1 and inserting the following Section 5.5.1 as follows:

5.5.1 The monthly Regular Assessment provided for herein shall commence as to each Owner of a Lot on the first day following the initial conveyance of the Lot to the Owner from the Declarant and shall be adjusted according to the number of days remaining in the month. The Board of Directors shall fix the amount of the monthly Regular Assessment to be paid by each Class A Member against each Lot at the beginning of each calendar year. Written notice of the monthly Regular Assessment shall be sent to every Class A Member subject thereto. The Board of Directors shall establish the due dates. A Lot which has a dwelling constructed thereupon which has been issued a certificate of occupancy by the local governmental authority shall be charged the full Regular Assessment rate. A Lot which does not have a dwelling for which a certificate of occupancy has been issued shall only pay the Regular Assessment at ½ of the full assessment rate.

5) By deleting Section 5.5.3 and inserting the following Section 5.5.3 as follows:

5.5.3 Both Regular and Special Assessments for a Lot Owner shall be determined by the Association based upon the proportion that each Lot bears to the aggregate number of Lots located on the Property, taking into account the fact that Lots which do not have a dwelling for which a certificate of occupancy has been issued only pay ½ of the Regular Assessment rate that a Lot which has a dwelling thereupon for which a certificate of occupancy has been issued. All Lots shall pay the full amount of a Special Assessment.

6) By deleting the last sentence in Section 5.6. All remaining provisions of Section 5.6 remain in full force and effect.

7) By deleting Section 5.9 and inserting the following Section 5.9 as follows:

Section 5.9 Books and Records of the Association. The Association shall keep full and correct books of account. The Association shall make available to all Lot Owners and the holders of all first mortgages on Lots, current copies of the books, records and financial statements of the Association upon reasonable request during normal business hours. All funds collected by the Association shall be held and expended solely for the purposed designated by this Declaration and shall be deemed to be held for the use, benefit and account of the Association and all of the Lot Owners. All

books and records must be kept in accordance with good accounting procedures and shall be reviewed by an independent accounting firm if the majority of Class A members or the majority of the Board of Directors votes affirmatively to take such action.

8) By deleting Section 9.1 and inserting the following Section 9.1 as follows:

Section 9.1 Architectural Control Committee. No residence, building, fence, electric pet fence, sidewalk, drive, mailbox, or other structure or improvement or anything attached thereto visible from the outside of the structure or improvement (including, without limitation, storm doors, windows, or window coverings) shall be erected, placed, altered, or maintained within the Subdivision nor shall any exterior addition to or change (including any change in color) or alteration therein be made until the proposed building plans, specifications, exterior color and finish, plot plans (showing the proposed location of such building or structure, drives and parking areas), and construction schedule shall have been submitted to and approved in writing by the Board of Directors of the Association, or by any architectural control committee appointed by said Board of Directors. Refusal of approval of plans, location or specification by said Board of Directors or architectural control committee may be based upon any reasonable ground, including, without limitation, lack of harmony of external design, color, location or relation to surrounding structures and topography and purely aesthetic considerations which, in the discretion of said Board of Directors or architectural control committee shall deem sufficient. After approval by the Board of Directors or architectural control committee is given, no alterations may be made in such plans except by and with their prior written consent. One copy of all plans, specification and related data shall be furnished the Board of Directors or architectural control committee for its records.

9) By deleting Section 10.4 and inserting the following Section 10.4 as follows:

Section 10.4. Parking. Except for vehicles being used by persons providing services to the Declarant, the Association, the Lot Owners or otherwise used or authorized to be used at the Subdivision by the Declarant, no part of the Subdivision may be used for the parking of any trailer coach, house trailer, mobile home, automobile trailer, camp car, recreational vehicle, camper, truck which exceeds ¾ ton, boat, boat trailer, open/closed-sided utility trailer, or any vehicle with letters or other markings over four inches tall or wide, or any other similar vehicle (collectively, "Special Vehicle"), unless such Special Vehicles are parked in the garage of the Lot Owner who owns such Special Vehicle and the garage door of such Lot Owner is completely closed at all times when a Special Vehicle is parked therein. Except, however, that an automobile trailer, boat, boat trailer, camper, or open/closed-sided utility trailer may be parked upon a Lot Owner's property if the parking location has been preapproved by the Board. At its discretion, the Board may require adequate screening of the trailer, boat, boat trailer, camper or open/closed-sided utility trailer from the street and adjacent properties.

Operative vehicles, other than Special Vehicles, used by a resident of a Lot as a primary source of transportation may be parked in the driveway of such Lot Owner or in any garage space owned by the Owner of such Lot. However, the residents of any one Lot may not collectively park more than four (4) operative vehicles other than Special Vehicles in the Subdivision. Inoperative vehicles may not be parked within the Subdivision unless these inoperative vehicles are parked in the garage and the garage door is completely closed. No auto maintenance and/or repairs may be performed in the Subdivision except if performed inside the garage of a Lot Owner. Vehicles and trailers, whether owned by a Lot Owner or not, parked in violation of any part of this Declaration or in violation of any Rules or Regulations, shall be towed away and stored at the Owner's risk and expense. By parking in the Subdivision, the Owner of the vehicle or other vehicle user hereby waives any claim against the Association resulting directly or indirectly out of the towing, unless the towing can be shown beyond a reasonable doubt to have been done maliciously by the Association. Note that the Association is not obliged to try to determine the owner of a vehicle or trailer and first give notice, before towing the vehicle. If a Lot Owner is not sure about the right to park at any particular area or space, the Lot owner should request, in writing, a written opinion from the Board. If the Board gives the approval sought by the Lot Owner or if the Board does not answer the written request by the Board, the Lot Owner may park in the space until further written notice to the contrary from the Board. Note that the Association's right to tow a vehicle includes the right to immobilize it.

10) By deleting Section 10.14 and inserting the following Section 10.14 as follows:

Section 10.14. Trash Disposal. Each Lot Owner shall deposit all trash, garbage, or other rubbish as directed and instructed by the Board. Lot Owners shall keep trash containers at all times in each Lot Owner's garage (if applicable), or in such other location which shall be inconspicuous and not viewable from the street or from adjacent Lot Owners, except on the days which trash, garbage, or other rubbish is collected by the local waste removal authorities. Any trash containers placed outside by t he Lot Owners in the location designated for collection by the local waste removal authorities shall only remain in such location for a period not to exceed twenty-four (24) hours. The Board shall have the right to dispose of any trash, garbage, or other rubbish of a Lot Owner in violation of this Section 10.14, and may assess the Lot Owner for the cost of such removal, which amount shall be payable on the date the next installment of the regular assessment is due.

11) By deleting Section 11.1.2 and inserting the following Section 11.1.2 as follows:

11.1.2 In addition to all other remedies of the Association, the Association shall have the right to assess a maximum fine of $100.00 per day per violation against any Owner who violates any provision of this Declaration or the Articles, Bylaws or Rules and Regulations of the Association after such Owner has been

given notice of the violation and an opportunity to be heard with respect to the violation in accordance with such policies and procedures as may be adopted from time to time by the Board of Directors or as may be set forth in the Bylaws.

12) That this Amendment shall be effective upon the recordation in the Office of the Register of Deeds of Wake County;

13) That, except as herein provided, the remaining provisions of the Covenants, as amended, are hereby ratified and confirmed in every respect.

IN WITNESS WHEREOF, the Board of Directors of Devonshire Homeowners Association of Wake County, Inc. hereby certifies as to above-referenced vote and executes this First Amendment the day and year first above written.

Devonshire Homeowners Association of Wake County, Inc.

BY: _____
President

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, a Notary Public of the County and State aforesaid, certify that DENNIS DUANE BRENNAN personally came before me today and acknowledged that he is the President of Devonshire Homeowners Association of Wake County, Inc. a N.C. non-profit corporation, and that by authority duly given and as the act of said corporation, the foregoing instrument was signed in its name by him as its President, as of the day and year first above written.

Witness my hand and official stamp or seal, this the 12th day of NOVEMBER, 2013.

SERGIO B. ROCAMORA NOTARY PUBLIC WAKE CO., NC MY COMMISSION EXPIRES APRIL 20, 2015

_____
Notary Public
My Commission Expires: 4/20/2015

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WAKE COUNTY
NORTH CAROLINA

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It is part of the recorded document and must be submitted with the original for re-recording.

Laura M. Riddick
Register of Deeds
Wake County Justice Center
300 South Salisbury Street, Suite 1700
Raleigh, NC 27601

☐ New Time Stamp ☐ $25 Non-Standard Fee

☐ Additional Document Fee ☐ Additional Reference Fee

This Customer Group

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