WAKE COUNTY, NC 279
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
05/18/2010 AT 15:53:33

BOOK:013944 PAGE:00772 - 00779

Prepared by and return to: Brian S. Edlin, P.O. Box 10669, Raleigh, NC 27605

STATE OF NORTH CAROLINA

COUNTY OF WAKE

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE TOWNES AT CRABTREE

THIS AMENDMENT to the Declaration of Covenants, Conditions and Restrictions for the Townes at Crabtree, made this 27th day of April 2010 by the Lot Owners and Members of The Townes at Crabtree Homeowners Association, Inc. (hereinafter, "the Association") and the Association,

WITNESSETH:

THAT WHEREAS, on or about 16 February 2006, the original Declarant caused to be recorded a Declaration of Covenants, Conditions and Restrictions for the Townes at Crabtree in Book 11819, Page 502 in the Wake County Registry, (hereinafter, "Declaration");

WHEREAS, the Association was incorporated on or about 25 July 2005 for the purpose of administering the affairs of the community and maintaining the Common Areas;

WHEREAS, Article 12.1 of the Declaration provides that such Declaration may be amended the affirmative vote of sixty-seven percent (67%) or more of the votes of the Lot Owners entitled to vote at a meeting held to consider such amendment;

WHEREAS, Article 11.2 of the Declaration currently requires the Lot Owners to maintain,

repair and replace, at their own expense, the entirety of the Dwelling Unit, including without limitation, the roofs and requires the Lot Owners to perform exterior painting on the Dwelling Units at the Lot Owner's expense;

WHEREAS, the requisite number of Lot Owners and the Association desire to amend the necessary sections of the Declaration to reflect that the Association shall be obligated to maintain, repair and replace, at the Association's expense, the roofs on the Dwelling Units, and further, that the Association shall be responsible for the exterior painting of the Dwelling Units at the Association's expense;

WHEREAS, this amendment shall become effective upon recordation of this amendment in the Wake County Registry as set forth in Article 12.3 of the Declaration; and

NOW, THEREFORE, the undersigned does hereby declare that the Declaration of Covenants, Conditions and Restrictions for The Townes at Crabtree shall be amended as follows:

1. To amend Article 4.5 of the Declaration by deleting that section in its entirety and inserting in lieu thereof the following (**new language appears in bold underlined type**):

Section 4.5 Application of this Article.

(a) This Article shall apply to any additions to the Property subsequently made subject to this Declaration and the terms and provisions of any Supplemental Declaration.

(b) Repainting **of a Dwelling Unit** using an existing paint color, re-roofing, minor repairs, **and maintenance of roofs on Dwelling Units by the Association in accordance with Article 11.1**.

(c) Notwithstanding anything to the contrary contained herein, the Declarant's construction of improvements on any Lot or on any Common Area shall be exempt from the provisions of this Article. Nothing contained in this Article shall be construed as prohibiting or conditioning any construction by the Declarant upon any Lot or Common Area while such property is owned by the Declarant. The exemption of the Declarant from the provisions of this Article shall survive the termination of the Class B membership.

2. To amend Article 9.2, of the Declaration by deleting that section in its entirety and inserting in lieu thereof the following (**new language appears in bold underlined type**):

Section 9.1 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, access, maintenance of property values, security, safety and welfare of the residents of the Property and other Members, and in particular for:

(a) Improvement, maintenance, and replacement of any of the Association's Common Areas including, without limitation, the Facilities;

(b) Payment of the Common Expenses:

(c) Implementation and enforcement of proper maintenance of exteriors of Dwelling Units and related improvements on improved Lots in the Property, if necessary, subject to reimbursement by the Lot Owner(s) of such property pursuant to Sections 11.1 and 11.2 of this Declaration;

(d) Payment of expenses associated with the maintenance, repair and replacement of the roofs on the Dwelling Units in accordance with Article 11.1 of the Declaration;

(e) Payment of expenses associated with the painting of the exterior of the Dwelling Units in accordance with Article 11.1 of the Declaration;

(f) Establishment of capital replacement reserves, including reserves established to enable the Property to fulfill its obligations under the Maintenance Agreement while the Maintenance Agreement is in effect; and

(g) Acquisition of services and facilities devoted to the foregoing purposes or for the use and enjoyment of the Association's Common areas, including but not limited to, the cost of repairs, replacements, additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against those Common Areas, its recreational facilities and use in accordance with the Bylaws, the employment of attorneys to represent the Association if necessary, and such other requirements as are necessary to perform all of the aforesaid functions and purposes.

3. To amend Article 9.4, of the Declaration by deleting that section in its entirety and inserting in lieu thereof the following (**new language appears in bold underlined type**):

Section 9.4 Special Assessments for Capital Improvements, **Repairs and Replacement**.

(a) In addition to the regular annual Assessments, the Association may levy in any assessment year, a special Assessment, applicable to that year only, for the purpose of, without limitation, defraying, in whole or in part, the cost of professional or consulting fees, any construction or reconstruction, unexpected repairs or replacement of any **roof (s) on a Dwelling Unit (s)** or capital improvement (including, without limiting the generality thereof, any lake, waterway, or pond) located upon the Association's Common Areas (in the discretion of the Association), including the necessary fixtures and personal property related thereto, or for satisfying the Property's obligations (as "Lot 2" thereunder) under the Maintenance Agreement while such agreement is in effect, if the Board deems it imprudent or impossible to satisfy such obligations from the Association reserves, provided that if any such special Assessment that is to be assessed against all Lot Owners in the Properties exceeds Sixty Dollars ($60.00) per year, such special Assessment shall require the consent of two-thirds (2/3) of the votes of the Members

who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall have been sent to all Members in accordance with the provisions of the Bylaws for such special meetings. Any such special Assessment up to but not exceeding Sixty Dollars ($60.00) shall not require the consent of the Members. The Sixty Dollar ($60.00) limit herein applies for the first five (5) years after this Declaration has been recorded and shall increase by the United States cost of living adjustment each year thereafter.

(b) In addition to the foregoing special Assessment approved by the Members, as described in the preceding paragraph, the Association may levy a special Assessment, in the event of emergencies in which the Association perceives a threat to persons or to property, without the consent of the Members. The amount of such Assessment, however, may not exceed Thirty Dollars ($30.00) per Lot Owner per year in the first five (5) years after this Declaration is recorded, but such maximum limitation on the assessment amount shall rise each year thereafter by the United States cost-of-living adjustment for such year.

4. To amend Article 11.1, of the Declaration by deleting that section in its entirety and inserting in lieu thereof the following (**new language appears in bold underlined type**):

Section 11.1 Maintenance by Association. The Association shall be responsible for the operation, maintenance and repair of the Common Area. **The Association shall also be responsible for the maintenance, repair and replacement of the roofs on the Dwelling Units as such maintenance, repair and replacement becomes necessary in the discretion of the Board, and the Association shall be responsible for the exterior painting of the Dwelling Units as such painting becomes necessary in the discretion of the Board. Provided, however, the Lot Owner shall be responsible for any costs associated with the repair or replacement of the roofs or the painting of the exterior of the Dwelling Units which costs are necessitated by the deliberate or negligent destruction, defacing, damaging or removal of the roofs or exterior siding of the Dwelling Unit by the Lot Owner in accordance with Article 5.2 of the Declaration.** In addition, the Association shall be responsible for grounds maintenance and lawn care in the yard area of each Lot, except for any portion of a Lot located inside a fence. Such lawn care and grounds maintenance shall consist of normal grass mowing, replacement of dead trees or shrubs, maintenance of landscaped areas or plant or flower beds installed by the Declarant or the Association (after the expiration of the Class B membership period) and any other maintenance activity as the Declaration or the Association (after the expiration of the Class B membership period) may determine, in its sole discretion, to keep such areas in a condition that is in compliance with the terms of this Declaration. Notwithstanding anything to the contrary contained herein, in the event a Lot Owner landscapes its Lot so as to change the size or character of plant or flower beds (an "altered Bed") on its Lot, the Association shall no longer have the responsibility to maintain the Altered Beds, but such Lot Owner (and any subsequent Lot Owner of a Lot on which there are Altered Beds) shall be responsible for all maintenance of the altered Beds at its sole cost and expense. If such Lot Owner (or subsequent Lot Owner) fails to maintain such Altered Beds in a condition in compliance with the terms of this Declaration, after providing notice of such failure to the Lot Owner, the Association may, but shall not be obligated to, enter upon such Lot Owner's Lot and maintain such landscaping in a condition in compliance with the terms of this Declaration. If such failure continues for a period of three (3) months, the Association, upon written notice to the Lot Owner, may require the Lot Owner to remove the

additional landscaping and restore the beds to their original condition or to a condition consistent with other plant or flower beds maintained by the Association within the Community. If the Lot Owner does not restore the beds within fourteen (14) days after the date of such notice from the Association, the Association may remove such landscaping and restore the beds to their original condition or to a condition consistent with other plant or flower beds maintained by the Association within the Community. The cost of such maintenance and/or removal and restoration shall immediately be deemed a special Assessment levied by the Association against such Lot Owner and such Lot Owner's Lot, shall become the personal obligation of such Lot Owner and shall become a lien against such Lot enforceable in accordance with the provisions herein. If a Lot Owner of a Lot on which there are Altered Bed wishes for the Association to maintain such beds, such Lot Owner shall remove all such landscaping that altered the size or character of the Declarant or Association-installed beds and return such beds to their original condition or to a condition consistent with other plant or flower beds maintained by the Association within the Community. The Association shall also maintain, repair and replace any utility lines, fixtures and the like located in a party wall or in the first-floor flooring of a Dwelling Unit when such lines, fixtures and the like serve more than one Dwelling Unit. The cost of such maintenance, repair and replacement shall be shared by all Dwelling Units in the Building affected, unless the cause of the repair or replacement can be attributed to a specific Lot Owner, in which case such Lot Owner shall be responsible for the cost of such repair or replacement. Notwithstanding the foregoing, the Association shall not be responsible for any maintenance or repairs caused by the negligence or intentional misconduct of any Lot Owner, its agents, invitees or family members, which shall be the responsibility of that Lot Owner. Furthermore, in no event shall the Association be responsible for the repair and maintenance of windows and/or exterior doors, which items shall be repaired, maintained and replaced at the cost and expense of the Lot Owner.

5. To amend Article 11.2, of the Declaration by deleting that section in its entirety and inserting in lieu thereof the following (**new language appears in bold underlined type**):

Section 11.2 Maintenance by Lot Owners. Except for the maintenance required of the Association under Section 11.1, each Lot Owner shall keep the Lot owned by him, and all improvements thereon, in a clean and sanitary condition and in good order and repair. Lot Owners shall be responsible for, and shall maintain, repair and replace at their own expense, **all portions of the** Dwelling Unit **not otherwise maintained by the Association as set out in Section 11.1 above**, including without limitation, all **interior** walls, including drywall, utilities in walls where such utilities serve just their Dwelling Unit, features in walls (windows, vents, doors), features in roofs **such as** vents and the like **(but not the roof itself)**, any deck, porch or patio, and the heat pump serving the Dwelling Unit, even if not located on the Lot on which the Dwelling Unit is located. All fixtures and equipment installed within a Lot commencing at a point where the utility lines, pipes, wire, conduits or systems enter the exterior walls of the Dwelling Unit, shall be maintained and kept in repair by the Lot Owner thereof, except that utility lines, fixtures and the like serving more than one Dwelling Unit shall be maintained by the Association as provided in Section 11.1. If a Lot Owner fails to maintain its Lot and the improvements thereon **that it is responsible to maintain** in accordance with this Article in a manner and condition reasonably satisfactory to the Board, in its sole discretion, the Board shall give written notice to such Lot Owner and, if the necessary maintenance is not completed within

twenty (20) days, the Association shall have the right, through its agents, contractors, and employees, to enter upon the Lot of the defaulting Lot Owner and to repair, maintain and restore the Lot and the exterior of the Building and any other improvements erected thereon in a reasonable and good and workmanlike manner. The cost of such repair, maintenance or restoration shall immediately be deemed a special Assessment levied by the Association against such Lot Owner and such Lot Owner's Lot, shall become the personal obligation of such Lot Owner and shall become a lien against such Lot enforceable in accordance with the provisions herein. In the event of an emergency (as so deemed by the board in is reasonable discretion), the Association shall have the right, with or without prior notice to the Lot Owner, to enter any Lot and Dwelling Unit to make emergency repairs necessary for the proper maintenance and operation of the Townhomes.

6. This amendment shall be effective upon recordation in the Office of the Wake County Registry.

7. Except as amended hereinabove, the remaining portions of the Declaration as originally recorded are hereby restated and reacknowledged.

WHEREFORE, the President and Secretary of the Association have hereunto affixed the corporate certification for the purpose of enacting the foregoing amendment.

CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS, CONDITIONS AND RESTRICTIONS OF THE TOWNES AT CRABTREE

By authority of its Board of Directors, The Townes at Crabtree Homeowners Association, Inc. hereby certifies that the foregoing instrument has been duly adopted and approved by the requisite percentage of Owners of Lots in the Townes at Crabtree and is, therefore, a valid amendment to the existing Declaration of Covenants, Conditions and Restrictions for The Townes at Crabtree.

THE TOWNES AT CRABTREE HOMEOWNERS ASSOCIATION, INC.

By _____
President

ATTEST:

_____
Secretary

STATE OF NORTH CAROLINA

ACKNOWLEDGMENT

COUNTY OF WAKE

I, Crystal Whitterton, a Notary Public of the County and State aforesaid, certify that Mike Sanders, personally came before me this day and acknowledged that (he)/she is Secretary/Assistant Secretary of The Townes at Crabtree Homeowners Association, Inc., a North Carolina non-profit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President and attested by Mike Sanders as its Secretary/Assistant Secretary.

Witness my hand and official stamp or seal, this 27th day of April, ~~200~~ 2010.

Notary Public

My commission expires:
2/3/2013

CRYSTAL WHITTENTON NOTARY PUBLIC WAKE COUNTY, NC



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