


STATE OF ALABAMA)
SHELBY COUNTY)


20040604000299780 Pg 1/4 20.00
Shelby Cnty Judge of Probate, AL
06/04/2004 12:52:00 FILED/CERTIFIED

ENCROACHMENT EASEMENT AGREEMENT

THIS AGREEMENT, made and entered into this 25th day of May, 2004, by and between TRINITY HOMES, L.L.C. (herein referred to as "OWNER OF LOT 247"), (herein referred to as "TRINITY HOMES, OWNER OF LOT 247"), and SOUTHFIRST MORTGAGE, INC., (herein referred to as "SOUTHFIRST MORTGAGE, INC.") and DIAMOND HOMEBUILDERS, L.L.C. (herein referred to as "OWNER OF LOT 248").

WITNESSETH

WHEREAS, TRINITY HOMES, OWNER OF LOT 247A is the owner of the property being more particularly described as follows:

Lot 247A, according to a Resurvey of Lots 237, 238, 246 & 247, The Woodlands, Sectors 2, 4 and 5, as recorded in Map Book 32, Page 43, in the Probate Office of Shelby County, Alabama.

(herein referred to as the "First Property")

WHEREAS, DIAMOND HOMEBUILDERS, OWNER OF LOT 248, is the owner of the property being more particularly described as follows:

Lot 248. Sector 2, according to the Survey of The Woodlands, Sectors 2, 4 and 5, as recorded in Map Book 29, Page 99, in the Probate Office of Shelby County, Alabama.

(herein referred to as the "Second Property").

WHEREAS, SOUTHFIRST MORTGAGE, INC., has a security interest in the First Property under the terms of its mortgage recorded in Instrument Number 2004021600007960 in the Office of the Judge of Probate of Shelby County, Alabama.

WHEREAS, the Survey prepared by Walter W. Wickstrom, Jr., of R.C. Farmer and Associates, Inc. dated May 24, 2004 which is attached hereto as Exhibit A and incorporated herein by this reference, discloses that certain improvements owned by DIAMOND HOMEBUILDERS, OWNER OF LOT 248, are located partially on the First Property. Said improvement is a concrete driveway which encroaches upon the First Property.

NOW, THEREFORE, in consideration of the premises, and of One Dollar (\$1.00) in hand paid by DIAMOND HOMEBUILDERS, OWNER OF LOT 248 to TRINITY HOMES, OWNER OF LOT 247A and to SOUTHFIRST MORTGAGE, INC., THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, the parties hereto hereby covenant and agree as follows:

1. DIAMOND HOMEBUILDERS, OWNER OF LOT 248, hereby disclaims any title or interest in any portion of the First Property by reason of said encroachment.
2. TRINITY HOMES, OWNER OF LOT 247A, its successors and assigns, and SOUTHFIRST MORTGAGE, INC., its successors and assigns, does hereby grant unto DIAMOND HOMEBUILDERS, OWNER OF LOT 248, its successors and assigns, a permanent, exclusive easement over the Second Property at the site of the encroachment for the purpose of using and maintaining the portion of the concrete driveway which is located thereon and such easement shall be a burden upon the First Property and a benefit to the Second Property.

3. DIAMOND HOMEBUILDERS, OWNER OF LOT 248, its successors and assigns, covenant and agree that should the portion of the driveway encroachment ever be removed by DIAMOND HOMEBUILDERS, OWNER OF LOT 248, its successors and assigns, at any time, all rights granted under this Agreement shall immediately become null and void.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, this 25th day of May, 2004.

DIAMOND HOMEBUILDERS, L.L.C.
(OWNER OF LOT 248)

BY: James F. Schilleci
JAMES F. SCHILLECI, ITS AUTHORIZED AGENT

SOUTHFIRST MORTGAGE, INC.

BY: Chris B. [Signature]

ITS: VICE PRESIDENT

TRINITY HOMES, L.L.C.
(OWNER OF LOT 247A)

BY: J. Dan Taylor
J. DAN TAYLOR, ITS MEMBER


BY: John R. Crawford
JOHN R. CRAWFORD, ITS MEMBER

ACKNOWLEDGEMENTS ON NEXT PAGE

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that James F. Schellici, whose name as Authorized Agent of Diamond Homebuilders, L.L.C., is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, he executed the same in his capacity for the aforesaid limited liability company on the day the same bears date.

Given under my hand and official seal, this the 25th day of May, 2004.

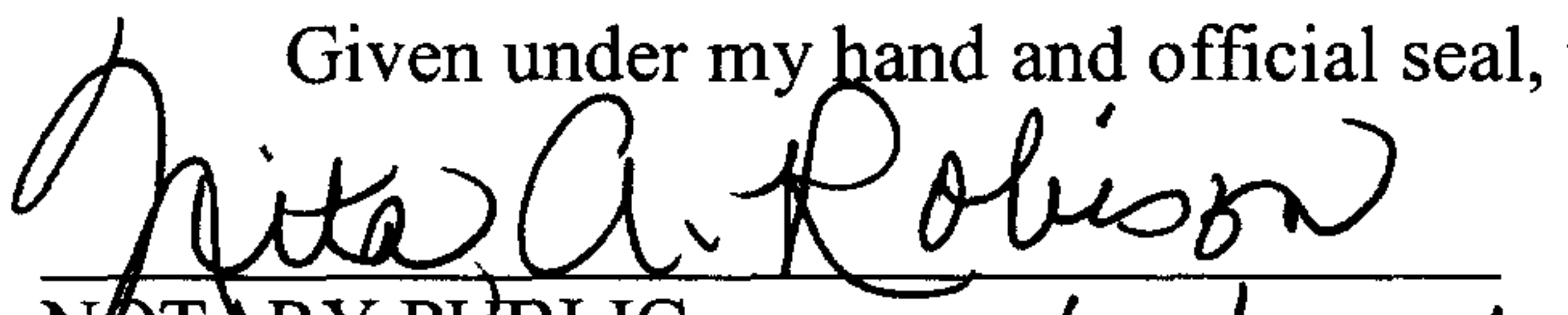


NOTARY PUBLIC Anne R. Strickland
My Commission Expires: 5/11/05

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Curt B. Reamer, whose name as Vice-President of SouthFirst Mortgage, Inc., is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, he executed the same in his/her capacity for the aforesaid corporation on the day the same bears date.

Given under my hand and official seal, this the 25th day of May, 2004.




NOTARY PUBLIC
My Commission Expires: 2/13/2006

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that J. Dan Taylor and John R. Crawford, whose names as Members of Trinity Homes, L.L.C., are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of this instrument, they executed the same in their capacity for the aforesaid limited liability company on the day the same bears date.

Given under my hand and official seal, this the 3rd day of February, 2004.



NOTARY PUBLIC
My Commission Expires: 5/30/05

