



20120124000028010 1/5 \$25.00  
Shelby Cnty Judge of Probate, AL  
01/24/2012 11:45:43 AM FILED/CERT

---

---

**SECOND AMENDMENT**

**TO**

**Cottages at Chesser**

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**EFFECTIVE OCTOBER 1, 2009**

---

---

This Instrument prepared by and upon  
recording should be returned to:

Mary Thornton Taylor  
Taylor Partners, LLC  
P. O. Box 489  
Orange Beach, Alabama 36561

---

---

---

SECOND AMENDMENT TO

Cottages at Chesser

DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS

---

THIS SECOND AMENDMENT TO COTTAGES AT CHESSER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made effective as of the 1st day of October, 2009 by CHESSER DEVELOPMENT, LLC, an Alabama limited liability company ("Developer").

**RECITALS:**

Developer has heretofore executed the Cottages at Chesser Declaration of Covenants, Conditions and Restrictions dated May 10, 2004 and recorded as Instrument #20040511000248910 in the Probate Office of Shelby County, Alabama, as has been amended by the First Amendment thereto recorded as Instrument # 20091008000381600 in said Probate Office, and as may be further amended from time to time (which, together with all amendments thereto, is hereinafter referred to as the "Declaration"). Capitalized terms not otherwise expressly defined herein shall have the same meanings given to them in the Declaration.

Pursuant to Section 10.2 of the Declaration, Developer desires to amend certain provisions of the Declaration as set forth below.

**NOW, THEREFORE,** in consideration of the premises, Developer does hereby amend the Declaration as follows:

1. **Assessments.** (a) Section 8.1 of the Declaration is deleted in its entirety and the following is substituted in lieu thereof:

8.1 **Assessments and Creation of Lien.** Each Owner of a Lot, except for Developer, by acceptance of a deed or other instrument conveying any interest therein, regardless of whether such deed or instrument contains a reference to this Declaration, is hereby deemed to covenant and agree to pay to the Association (a) Annual Assessments, as established and to be collected as provided in Section 8.4 below, (b) Special Assessments, to be established and collected as provided in Section 8.5 below, and (c) Individual Assessments against any particular Lot which

are established, assessed and to be collected pursuant to the terms of this Declaration, including, but not limited to, any fines as may be levied or imposed against such Lot in accordance with the provisions of this Declaration; provided, however, the Association reserves the right to levy lesser Assessments or no Assessments on any builder-held Lot that would otherwise be due and payable hereunder until the date on which a builder-held Lot is conveyed to a person other than a builder. All Assessments, together with late charges and interest as provided in Section 8.8(a) below, and all court costs and attorneys' fees incurred by the Association to enforce or collect such Assessments shall be an equitable charge and a continuing lien upon each Lot for which the Owner thereof is responsible for the payment of the same, which lien may be enforced in the manner provided in Section 8.8(c) below. Each Owner shall be personally liable for the payment of all Assessments coming due while he is the Owner of a Lot and his grantee shall take title to such Lot subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee to the Association which were the legal obligations of the grantor. In the event of co-ownership of any Lot, all of the co-Owners shall be jointly and severally liable for the entire amount of such Assessments. All Assessments shall be paid in such manner and on such dates as may be fixed by the Board. All Assessments shall be payable in all events without offset, diminution or abatement by reason of fire or other casualty or any taking as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof with respect to any Lot, Common Area, or any other portion of the Development or any other cause or reason of any nature.

(b) Section 8.4 of the Declaration is deleted in its entirety and the following shall be substituted in lieu thereof:

8.4 Computation of Annual Assessments.

(a) Notwithstanding anything provided to the contrary in this Declaration, the Annual Assessment for each Lot within the Development, except Lots owned by Developer, shall be TWO HUNDRED and NO/100 DOLLARS (\$200.00) per Lot in the Development; provided, however, the Association reserves the right to levy a lesser Annual Assessment or no Annual Assessment on any builder-held Lot that would otherwise be due and payable hereunder until the date on which a builder-held Lot is conveyed to a person other than a builder. Said Annual Assessment is based upon the Board's estimate of the amount required to fund the Common Expenses expected to be incurred by the Association. The Board shall not be required to base such Annual Assessment on an actual budget of projected Common Expenses during such period but instead may base the Annual Assessments on assessments made in comparable developments and such other factors as the



Board deems reasonable. The foregoing shall not limit or restrict any Special Assessments levied pursuant to Section 8.5 below or any Individual Assessments levied in accordance with the provisions of Section 8.6 below.

(b) Commencing with the calendar year which begins on January 1, 2009 (i.e., from January 1, 2009 through December 31, 2009, which period is hereinafter referred to as the "Base Year") and annually thereafter, the Board and Developer, so long as Developer owns any Lot within the Development, shall determine and approve annually an annual budget covering the estimated Common Expenses for the Development for the upcoming year, such budget to include a capital contribution or reserve account if necessary for the capital needs of the Association. The amount set forth in such budget shall constitute the aggregate amount of Annual Assessments for the then applicable year and, subject to the provisions of Section 8.7 below, each Owner shall pay his prorata share of the same as provided in Section 8.3 above. A copy of the budget approved by the Board and Developer, so long as Developer owns any Lot within the Development, setting forth the amount of Annual Assessments to be levied against the Lots for the year shall be delivered to each Owner. At such time as Developer no longer owns any Lot within the Development, the Board shall determine and approve the annual budget covering the estimated Common Expenses for the Development. A copy of the budget approved by the Board setting forth the amount of Annual Assessments to be levied against the Lots for the year shall be delivered to each Owner.

(c) Subject to the provisions of Section 8.4(d) below, Annual Assessments may increase each year in the amount reasonably necessary to cover the estimated Common Expenses for the Development for the upcoming year. If any budget or the amount of Annual Assessments collected by the Association at any time proves to be inadequate or insufficient for any reason to fully pay all costs and expenses of the Association and all Common Expenses, then the Board may call a meeting of the Association for the purpose of approving Special Assessments as provided in Section 8.5 below. If the actual amount of Annual Assessments collected in any one year exceeds the actual costs incurred for Common Expenses for such year, the excess shall be retained by the Association as a reserve for subsequent years' Common Expenses.

(d) In the event the budget for any year after the Base Year results in the Owners being liable for the payment of Annual Assessments which exceed (without regard to proration or adjustment as provided in Section 8.7 below) one hundred ten percent (110%) of the Annual Assessments payable for the immediately preceding calendar year, then the budget and the amount of the Annual Assessments shall be presented for approval by the vote of the Owners of a majority of the Lots who are voting in person or by proxy at such meeting. In the event the amount of the Annual Assessments does not exceed the limitation set forth above or until such time

as the Owners of a majority of the Lots have approved such increase in the amount of the Annual Assessments, then the budget approved by the Board for the then current fiscal year shall be implemented, subject to the limitation set forth above on the amount of increase in Annual Assessments.

4. **Full Force and Effect.** Except as specifically modified and amended hereby, all of the terms and conditions of the Declaration, as amended, shall remain in full force and effect.

**IN WITNESS WHEREOF**, Developer has caused this Second Amendment to the Cottages at Chesser Declaration of Covenants, Conditions and Restrictions to be effective as of the day and year first above written.

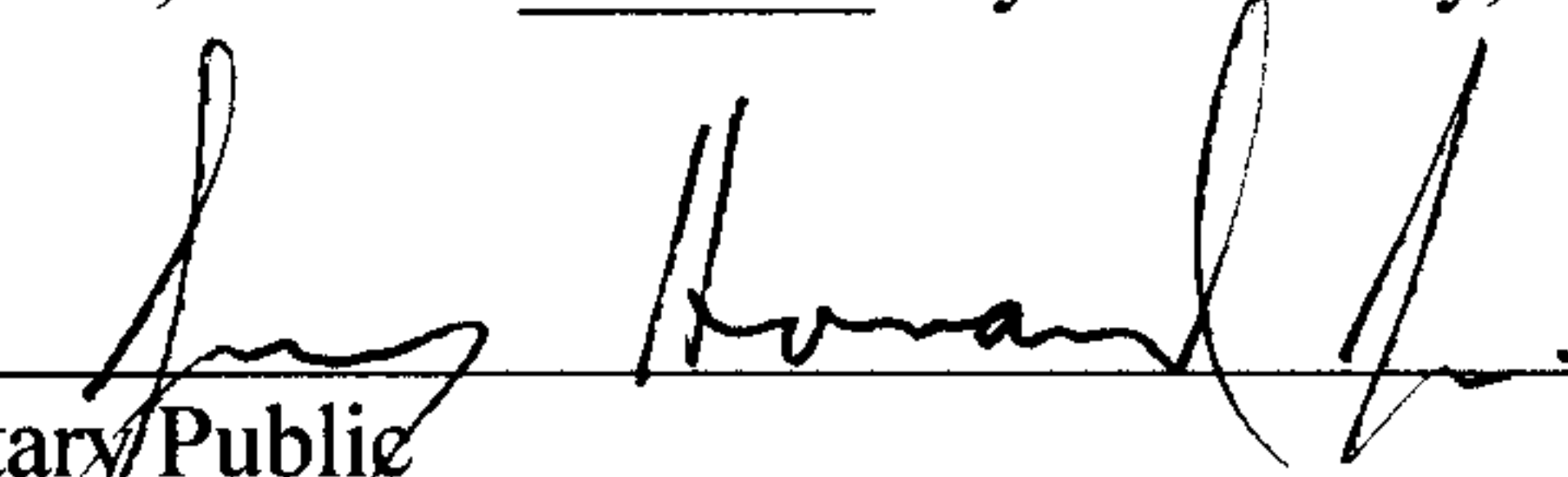
**CHESSER DEVELOPMENT, LLC**, an Alabama  
limited liability company

  
\_\_\_\_\_  
William L. Thornton, III  
Its Manager

STATE OF ALABAMA           )  
                                          )  
COUNTY OF JEFFERSON    )

I, the undersigned, a notary public in and for said County in said State, hereby certify that William L. Thornton, III, whose name as Manager of Chesser Development, LLC, an Alabama limited liability company, 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 said instrument, he, as such officer and with full authority executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal, this the 23<sup>rd</sup> day of January, 2012.

  
\_\_\_\_\_  
Notary Public

[SEAL]  
My Commission Expires:  
November 7, 2015