


STATE OF ALABAMA)

COUNTY OF SHELBY)


20120606000198470 1/9 \$38.00
Shelby Cnty Judge of Probate, AL
06/06/2012 10:17:10 AM FILED/CERT

**THIRD AMENDMENT TO
DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
CHELSEA STATION, A RESIDENTIAL SUBDIVISION**

THIS THIRD AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR CHELSEA STATION, A RESIDENTIAL SUBDIVISION, is made and entered into as of the 4th day of June, 2012.

RECITALS:

Chelsea Station, LLC (the "Original Developer") has heretofore caused the Declaration of Protective Covenants, Conditions and Restrictions for Chelsea Station, a Residential Subdivision dated August 27, 2007 to be recorded as Instrument # 20070829000407640 in the Office of the Judge of Probate of Shelby County, Alabama, which has been amended by a First Amendment thereto dated March 12, 2010 and recorded as Instrument # 201000430000132190 in the aforesaid Probate Office, and further amended by the Second Amendment thereto dated September 21, 2010 and recorded as Instrument # 20101008000335460 (collectively, the "Declaration"). Capitalized terms not otherwise expressly defined herein shall have the same meanings given to them in the Declaration.

The Original Developer is no longer the owner of any of the Lots subject to the Declaration.

Pursuant to Section 10.3 of the Declaration, the Declaration may be amended at any annual or special meeting of the members of the Chelsea Station Owners' Association, Inc. (the "Association") by the vote of at least fifty-one percent (51%) of the total votes in the Association.

On June 4, 2012, a special meeting of the members of the Association was held pursuant to written notice of such special meeting given to all Owners on May 24, 2012 (which notice of special meeting also specifically included as part of the agenda a discussion and vote concerning the proposed amendment to the Declaration set forth below).

At the aforesaid special meeting of the Association, which was attended by 139 out of 140 votes in the Association, a proposal was made to amend the Declaration as set forth below. At such meeting, 130 of the 140 total number of votes in the Association affirmatively approved the amendment to the Declaration set forth in this Amendment.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and pursuant to the provisions of Section 10.3(b) of the Declaration, the undersigned Owners, who collectively hold ninety two and 85/100 percent (92.85%) of the total number of votes in the Association, do hereby consent to and approve of the following amendment to the Declaration:

1. Developer. Section 1.12 of the Declaration is deleted in its entirety and the following is substituted in lieu thereof:

“1.12 Developer. The term “Developer” shall mean Thornton, Inc, an Alabama corporation, and its successors and assigns.”

As Developer, Thornton, Inc. succeeds in all rights and obligations of the Original Developer under the Declaration including, but not limited to, the right to appoint or remove members of the Board and officers of the Association in accordance with Section 4.2 of the Declaration, the right to appoint and remove the members of the ARC in accordance with Section 5.2 of the Declaration and the right to amend the Declaration in accordance with Section 10.2 of the Declaration.

2. Common Area 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 8.3 below, (b) Special Assessments, to be established and collected as provided in Section 8.4 below, and (c) Individual Assessments against any particular Lot which are established, assessed and to be collected pursuant to Section 8.5 below and 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-owned Lot that would otherwise be due and payable hereunder until the date on which a Builder-owned Lot is conveyed to a person other than a Builder. All Assessments, together with late charges and interest as provided in Section 8.7(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 8.7(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. All Assessments, together with late charges and interest at the Applicable Rate, as specified in Section 8.7(a) below, court costs and attorneys' fees incurred with respect thereto by the Association shall also be a personal obligation of the person who was the Owner of the Lot at the time such Assessments and other costs and charges were assessed or incurred. 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 8.3 of the Declaration is deleted in its entirety and the following is substituted in lieu thereof:

"8.3 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, commencing as of January 1, 2013 and continuing until and including December 31, 2013 shall be FOUR HUNDRED and NO/100 DOLLARS (\$400.00) per Lot in the Development based upon the Board's estimate of the amount required to fund the Common Expenses expected to be incurred by the Association during such period. Notwithstanding the foregoing, the Association reserves the right to levy a lesser Annual Assessment or no Annual Assessment on any Builder-owned Lot that would otherwise be due and payable hereunder until the date on which a Builder-owned Lot is conveyed to a person other than a Builder. Said Annual Assessments are based upon the Board's estimate of the amount required to fund the Common Expenses expected to be incurred by the Association during such period. 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 8.4 below or any Individual Assessments levied in accordance with the provisions of Section 8.5 below.

(b) Commencing with the calendar year which begins on January 1, 2013 (i.e., from January 1, 2013 through December 31, 2013, 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 8.2 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 8.4 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 entire 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.

Notwithstanding anything herein to the contrary, the Annual Assessments for the Base Year shall be determined in accordance with Section 8.4(b) and shall not be subject to the limitations on increases in the amount of Annual Assessments provided in this Section 8.4(d).

(e) Purpose of Assessments. The Annual and Special Assessments provided for herein shall be used for the general purposes of promoting the recreational, health, safety, welfare, common benefit and enjoyment of the Owners and Occupants of the Development and otherwise for the general upkeep and maintenance of the Development, all as may be more specifically described herein or authorized from time to time by the Board. The Common Expenses to be funded by the Annual Assessments include, but shall not be limited to, the following:

(i) Salaries, fringe benefits and other compensation paid and out-of-pocket expenses reimbursed by the Association for its employees, including but not limited to full time and part time employees, agents, officers, members of the Board and any third party contractors;

(ii) Management fees and expenses of administration, including legal and accounting fees, incurred by the Association;

(iii) Utility charges for any utilities serving any of the Common Areas and charges for other common services for the Property, including, without limitation, trash collection and security services, if any;

(iv) The costs of any insurance policies purchased for the benefit of the Association as required or permitted by this Declaration, including, without limitation, fire, flood and other casualty coverage, public liability coverage and such other insurance coverage as the Board determines to be in the best interest of the Association, including errors and omissions insurance, directors and officers liability insurance and any other liability insurance coverage for the benefit of the Association, the members of the Board, any officers, employees, contractors, agents or representatives of the Association or for any members of the ARC;

(v) Expenses of maintaining, operating and repairing the Common Areas, amenities and facilities serving the Development, whether located within or without the Development, which the Board determines from time to time would be in the best interest of the Association to so maintain, operate and/or repair;

(vi) Ad valorem real and personal property taxes assessed and levied upon any of the Common Areas as of the date hereof and for all subsequent tax years;

(vii) The expenses of the ARC which are not defrayed by plan review charges;

(viii) All other fees, costs and expenses incurred by the Association in accordance with the terms and provisions of this Declaration or which the Board, in its sole discretion, determines to be appropriate to be paid by the Association, including, without limitation, taxes and governmental charges not separately assessed against Lots;

(ix) The establishment and maintenance of a reasonable reserve fund or funds, if determined reasonably necessary by the Board (1) for inspections, maintenance, repair and replacement of any portions of the Common Areas for which the Association is responsible to inspect, maintain, repair or replace on a periodic basis, (2) to cover emergencies and repairs required as a result of casualties to the Common Areas which are not funded by insurance proceeds and (3) to cover unforeseen operating contingencies or deficiencies arising from unpaid Assessments as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board.”

(c) Article VIII of the Declaration is hereby amended by adding at the end thereof the following Section 8.10:

“8.10 Date of Commencement of Assessments.

(a) The Annual Assessments provided for herein shall commence as to each Lot on the day on which such Lot is conveyed to an Owner other than Developer or a Builder and shall be due and payable in such manner and on such schedule as may be established from time to time by the Board. Annual Assessments and any outstanding Special Assessments shall be prorated for each Lot according to the number of days then remaining in the year in which such Lot is conveyed. Annual and Special Assessments for Lots within any portion of the Additional Property hereafter submitted to the terms of this Declaration shall commence with respect to each such Lot on the date on which such Lot is conveyed to an Owner other than Developer or a Builder, subject to proration and adjustment according to the number of days remaining in the year in which such Assessments commence. Notwithstanding anything provided herein to the contrary, Developer shall not be responsible for the payment of Annual or Special Assessments on any Lots which it, or its affiliates, own in the Development.

(b) In the event a deficit exists between the total amount of Annual Assessments assessed to all other Owners and the actual costs incurred by the Association for Common Expenses for the Development, Developer shall have the option to either pay Annual Assessments on Lots owned by Developer or fund any deficit which may exist between the total amount of Annual Assessments assessed to all other Owners and the actual costs incurred by the Association for Common Expenses for the Development. Upon Developer's sale of Developer's last Lot in the Development or as of December 31, 2015, whichever first occurs, Developer shall have no further obligation of any nature to pay any Annual or Special Assessments or otherwise fund any deficits relating to the Common Expenses or Common Areas."

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

[SIGNATURES OF OWNERS ARE ATTACHED]

IN WITNESS WHEREOF, the undersigned Owners do hereby consent to and agree to all of the terms and provisions of this Third Amendment to the Declaration of Protective Covenants, Conditions and Restrictions for Chelsea Station, a Residential Subdivision effective as of the day and year first above written.

Owner of Lots 8-12, inclusive, Lots 29-66, inclusive,
Lot 66A, Lots 67-75, inclusive, Lots 125-128,
inclusive, and Lot 136:

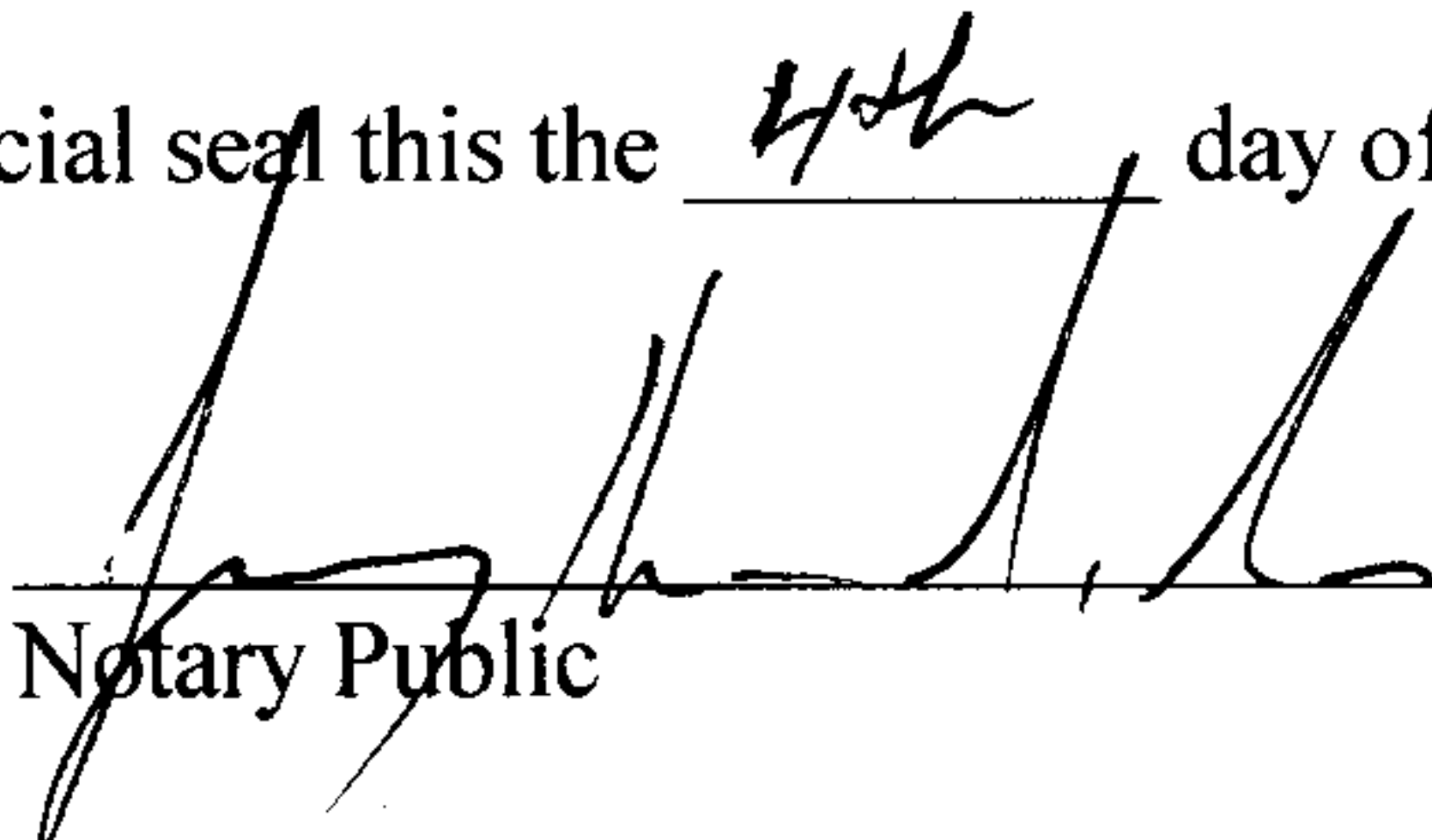
THORNTON, INC.

By: 
William L. Thornton, III
President

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 President of THORNTON, INC., an Alabama corporation, 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 corporation.

Given under my hand and official seal this the 4th day of June, 2012.



Notary Public

[SEAL]
My Commission Expires:
Nov. 7, 2015

Owner of Lot 1, Lot 2, Lot 7, Lot 13, Lots 15-26, inclusive, Lots 76-82, inclusive, Lots 84-124, inclusive, Lots 129-132, inclusive, Lot 135 and Lot 137:

THORNTON NEW HOME SALES, INC.

By: _____

William L. Thornton, III
CEO

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 President of THORNTON NEW HOME SALES, INC., an Alabama corporation, 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 corporation.

Given under my hand and official seal this the 4th day of June, 2012.

Notary Public

[SEAL]

My Commission Expires:

Nov. 7, 2015