

Deed Book 52419 Pg 195
Filed and Recorded Mar-27-2013 02:31pm
2013-0088302
Real Estate Transfer Tax \$0.00
Cathelene Robinson
Clerk of Superior Court
Fulton County, Georgia

After recording, please return to:
Rachel E. Conrad
Dorough & Dorough, LLC
Attorneys at Law
160 Clairemont Avenue
Suite 650
Decatur, Georgia 30030
(404) 687-9977

Cross Reference: Deed Book: 42608
Page: 615

**AMENDMENT TO DECLARATION OF CONDOMINIUM FOR
THE RESERVE OF DUNWOODY CONDOMINIUM AND BYLAWS OF THE RESERVE
OF DUNWOODY CONDOMINIUM ASSOCIATION, INC.**

**THIS AMENDMENT TO THE DECLARATION OF CONDOMINIUM FOR THE
RESERVE OF DUNWOODY CONDOMINIUM AND BYLAWS OF THE RESERVE OF
DUNWOODY CONDOMINIUM ASSOCIATION, INC.** (hereinafter referred to as
"Amendment") is made this 28th day of January, 2013 by **THE RESERVE OF DUNWOODY
CONDOMINIUM ASSOCIATION, INC.**, a Georgia nonprofit corporation (hereinafter
referred to as the "Association").

WITNESSETH:

WHEREAS, CJ Kelley, LLC, a Georgia limited liability company, as Declarant, executed that certain Declaration of Condominium for The Reserve of Dunwoody Condominium, which was recorded on May 18, 2006 in Deed Book 42608, Page 615, *et seq.*, Fulton County, Georgia records (hereinafter as supplemented and/or amended from time to time, the "Declaration"), together with the Bylaws of The Reserve of Dunwoody Condominium Association, Inc., which are attached to the Declaration as Exhibit "C" and recorded therewith (hereinafter as amended, the "Bylaws"); and

WHEREAS, the Association is a nonprofit corporation organized under the Georgia Nonprofit Code to be the Association named in the Declaration to have the power and authority set forth therein; and

WHEREAS, pursuant to Paragraph 16 of the Declaration, the Declaration may be amended by the affirmative vote of at least sixty-seven percent (67%) of the total eligible vote of

the members of the Association at any annual meeting, or any special meeting called for that purpose, or by written consent of the members in lieu of a meeting to the extent permitted by the Bylaws, subject to Section 44-3-93 of the Condo Act; and

WHEREAS, Paragraph 16 of the Declaration further provides that any amendment to the Declaration shall require the consent of the Declarant so long as Declarant owns a Unit; and

WHEREAS, Paragraph 18(b) of the Declaration provides that material amendments to the Declaration must be approved by the Mortgagees of Units which represent at least fifty-one percent (51%) of the votes of Units that are subject to Mortgages; and

WHEREAS, Paragraph 18(d) of the Declaration provides that any Mortgagee of a Unit that receives notice from the Association or the Unit Owner of any amendment to the Declaration and fails to respond to the same within thirty (30) days of the date of such notice shall be deemed to have approved such amendment; and

WHEREAS, pursuant to Article VI, Section 6.03 of the Bylaws, the Bylaws may be amended by the vote of the holders of at least seventy-five percent (75%) of the eligible Association vote, provided that so long as the Declarant has the right to appoint directors as provided in the Bylaws, the Declarant's consent shall be required for any such amendment; and

WHEREAS, members of the Association holding at least sixty-seven percent (67%) of the total eligible vote of the Association agreed to amend the Declaration as provided herein; and

WHEREAS, Mortgagees of Units which represent at least fifty-one percent (51%) of the votes of Units that are subject to Mortgages have consented to this Amendment as provided in Paragraph 18(d) of the Declaration; and

WHEREAS, members representing seventy-five percent (75%) of the eligible Association vote agreed to amend the Bylaws as provided herein; and

WHEREAS, Declarant no longer owns a Unit and no longer has the right to appoint directors of the Association as provided in the Bylaws; and

WHEREAS, attached hereto as Exhibit "A" and incorporated herein by reference is the sworn statement of the Secretary of the Association, which sworn statement states unequivocally that: (a) the consent of members of the Association holding at least sixty-seven percent (67%) of the total eligible vote was lawfully obtained to amend the Declaration; (b) the consent of members representing seventy-five percent (75%) of the eligible Association vote was lawfully obtained to amend the Bylaws; and (c) any notices required under the Declaration, Bylaws and Georgia law were given; and

WHEREAS, the Association and the members thereof desire to amend the Declaration and Bylaws as set forth herein;

NOW THEREFORE, the undersigned hereby adopt this Amendment to the Declaration of Condominium for The Reserve of Dunwoody Condominium and Bylaws of The Reserve of Dunwoody Condominium Association, Inc., hereby declaring that all of the property now or hereafter subject to the Declaration and Bylaws shall be held, conveyed, encumbered, used, occupied and improved subject to the Declaration and Bylaws, amended as follows:

1.

The Declaration and Bylaws are hereby amended by deleting the same in their entirety and substituting in lieu thereof that certain Declaration of Condominium for The Reserve of Dunwoody Condominium and Bylaws for The Reserve of Dunwoody Condominium Association, Inc., attached as Exhibit "B" hereto and by this reference incorporated herein.

2.

Unless otherwise defined herein, the words used in this Amendment shall have the same meanings as set forth in the Declaration.

3.

This Amendment shall be effective only upon being recorded in the records of the Clerk of Superior Court of Fulton County, Georgia and shall be enforceable against the current Owner of any Unit subject to the Declaration.

4.

Except as herein modified, the Declaration shall remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Association has caused this Amendment to be executed under seal the day and year first above written.

ASSOCIATION: THE RESERVE OF DUNWOODY CONDOMINIUM ASSOCIATION, INC., a Georgia nonprofit corporation

By: Charles E. Ricketts
Charles E. Ricketts, President

Attest: Becky Ricketts
Becky Ricketts, Secretary

[AFFIX CORPORATE SEAL]

Signed, sealed, and delivered in the presence of:

Melani Grum
WITNESS

Byron Anderson
NOTARY PUBLIC

My Commission Expires

[AFFIX NOTARY SEAL]



EXHIBIT "A"

Sworn Statement of Secretary of
The Reserve of Dunwoody Condominium Association, Inc.

STATE OF GEORGIA

COUNTY OF FULTON

Re: The Reserve of Dunwoody Condominium Association, Inc.

Personally appeared before me, the undersigned deponent who, being duly sworn, deposed and said on oath that:

- 1. Deponent is the Secretary of The Reserve of Dunwoody Condominium Association, Inc.
- 2. Deponent is duly qualified and authorized to make this Affidavit and knows the facts contained herein are of his or her own personal knowledge.
- 3. The foregoing Amendment to the Declaration of Condominium for The Reserve of Dunwoody Condominium and Bylaws of The Reserve of Dunwoody Condominium Association, Inc. was approved by members of the Association holding at least sixty-seven percent (67%) of the total eligible vote of the Association, as to the Declaration, and by members representing seventy-five percent (75%) of the eligible Association vote, as to the Bylaws.
- 4. All notices required under the Declaration, Bylaws and Georgia law were given.
- 5. Deponent makes this Affidavit pursuant to Official Code of Georgia Annotated Section 44-3-93.

This the 23rd day of January, 2013.

Signed: Becky Ricketts
Becky Ricketts

Sworn to and subscribed before me
this 23rd day of Jan, 2013.

Byron Anderson
Notary Public



[AFFIX NOTARY SEAL]