

Jay C. Stephenson
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7/22

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STATE OF GEORGIA

CROSS REFERENCE:

COUNTY OF COBB

DEED BOOK: 10708

PAGE: 001

**AMENDMENT TO THE DECLARATION OF CONDOMINIUM
AND OF EASEMENTS, RESTRICTIONS, AND COVENANTS
FOR MCCLAREN MILL CONDOMINIUM ASSOCIATION, INC.**

WHEREAS, McClaren Mill Development LLC (hereinafter referred to as "Declarant") executed that certain Declaration of Condominium Ownership and Easements, Restrictions and Covenants for McClaren Mill Condominium on October 9, 1997, said Declaration being recorded, in Deed Book 10708, Page 001 of the Cobb County, Georgia Land Records; and thereafter amended (the Declaration as amended being hereinafter referred to as the "Declaration").

WHEREAS, plats for McClaren Mill Condominium are recorded in Condominium Plat Book 5, Page 163, revised at Condominium Plat Book 5, Page 164, Cobb County, Georgia Land Records; and

WHEREAS, floor plans for McClaren Mill Condominium have been recorded in Condominium Floor Plan Drawer Number 97-0004 and amended at Condominium Floor Plan Drawer Number 98-001 of the Cobb County, Georgia Land Records; and

WHEREAS, Paragraph 26 of the Declaration provides the Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members of the McClaren Mill Condominium Association, Inc. ("Association") holding at least sixty-six and two-thirds (66 2/3) percent of the total eligible vote thereof; and

WHEREAS, owners holding at least sixty-six and two-thirds (66 2/3) percent of the total eligible vote of the Association have approved this Amendment.

NOW, THEREFORE, the Declaration of Condominium for McClaren Mill is hereby amended as follows:

Loan Number: 4615060014
Property Address: 4050 COOPER LAKE COURT
SMYRNA, GA 30082

Date: 6/17/2005

EXHIBIT "A"

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 549, 17TH DISTRICT, 2ND SECTION, COBB COUNTY, GEORGIA, BEING LOT 6, LAUREL SPRINGS, PHASE I-A, AS PER PLAT RECORDED IN PLAT BOOK 97, PAGE 7, COBB COUNTY, GEORGIA RECORDS, WHICH PLAT IS HEREBY REFERRED TO AND MADE A PART OF THIS DESCRIPTION, BEING IMPROVED PROPERTY KNOWN AS NO. 4050 COOPER LAKE COURT ACCORDING TO THE PRESENT SYSTEM OF NUMBERING HOUSES IN COBB COUNTY, GEORGIA AND BEING MORE PARTICULARLY SHOWN ON SURVEY PREPARED BY GEORGIA LAND SURVEYING CO., INC. DATED AUGUST 5, 1985. APN# 17-0549-0-32-0-0006-0

Paragraph 18 is amended by deleting that Section in its entirety and substituting the following therefore:

In order to protect the equity of the individual Unit Owners at the Property, to carry out the purpose for which the Property was formed by preserving the character of the Property as a homogeneous residential community of predominantly owner-occupied homes and by preventing the Property from assuming the character of a renter-occupied apartment complex, and to comply with the eligibility requirements for financing in the secondary mortgage market insofar as such criteria provide that the project be substantially owner-occupied, leasing of Units shall be governed by the restriction imposed by this Paragraph. Except as provided herein the leasing of Residential Units (Units 1 – 12) shall be prohibited.

(a) Definition. "Leasing" for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any person or persons other than the Owner. However, leasing shall not include exclusive occupancy by the child or parent of an Owner. For purposes hereof, occupancy by a roommate of any Owner who occupies the Unit as such Owner's primary residence shall not constitute leasing hereunder.

(b) Undue Hardship. The Board shall be empowered to allow reasonable leasing of Units, upon written application, to avoid undue hardship upon an Owner. By way of illustration, and not by limitation, examples of circumstances which would constitute "undue hardship" are those in which (1) an Owner must relocate his or her residence for employment purposes and cannot, within nine (9) months from the date the Unit was placed on the market, sell the Unit for a price no greater than the current appraised market value, after having made reasonable efforts to do so; (2) where the Owner dies and the Unit is being administered by his or her estate; and (3) where the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Unit, in which case the Unit Owner must reapply every year for renewal of the hardship exception. Those owners who have demonstrated that the inability to lease their Unit would result in undue hardship and have obtained the requisite approval of the Board may lease their Units for such duration as the Board reasonably determines is necessary to prevent undue hardship.

Any Owner who believes that he or she must lease his or her Unit to avoid undue hardship shall submit a written application to the Board setting forth the circumstances necessitating the leasing, a copy of the proposed lease, and such other information as the Board may reasonably require. Leasing in the case of undue hardship shall be permitted only upon the Board's written approval of the Owner's application. When leasing is approved, a copy of the lease, signed by the lessee and lessor, shall be

submitted to the Board within ten (10) days after it has been signed by both parties.

The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and Bylaws, in order to enforce the provisions of this Subparagraph. Any transaction which does not comply with this subparagraph shall be voidable at the option of the Board of Directors.

(c) Leasing Provisions. Such leasing as is permitted at McClaren Mill Condominium Association, Inc. shall be governed by the following provisions:

- (i) Notice. At least seven (7) days prior to entering into the lease of a Unit, the Owner shall provide the Board of Directors with a copy of the proposed lease, the name, address, and home and business telephone numbers of the proposed lessee and the names of all other people occupying the Unit, the Owner's address other than at the Unit, and such other information as the Board may reasonably require. The Board shall approve or disapprove the form of said lease. In the event a lease is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease in compliance with the Declaration and any rules and regulations adopted pursuant thereto. Within ten (10) days from the execution of the approved lease by both parties, the Owner shall provide the Board with a copy of the executed lease.
- (ii) General. Units may be leased only in their entirety; no fraction or portion may be rented. There shall be no subleasing of Units or assignment of leases unless approved in writing by the Board. No transient tenants may be accommodated in a Unit. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. All leases shall be for a period of at least twelve (12) months, except with written Board approval. The Unit Owner must provide the tenant copies of the Declaration, Bylaws, and Association rules and regulations, and the lease form shall provide that the Owner has done so.
- (iii) Liability for Assessments and Compliance With Declaration, Bylaws, and Rules and Regulations. Each Owner covenants and agrees that any lease of a Unit in the Property shall contain the following language and agrees

that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(A) Liability for Assessments. If a Unit Owner who is leasing his or her Unit fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board of Directors, lessee shall pay to the Association all unpaid annual and special assessments and other charges, as lawfully determined and made payable during the term of the lease and any other period of occupancy by lessee; provided, however, lessee need not make such payments to the Association in excess of, or prior to the due dates for monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges lessee shall pay to the Association all amounts authorized under the Declaration as if the lessee were the Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

(B) Compliance with Declaration, Bylaws, and Rules and Regulations. Lessee shall abide by and comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests in order to insure such compliance. The Owner shall cause all Occupants of his or her Unit to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses caused by such Occupants, notwithstanding the fact that such Occupants of the Unit are fully liable and may be sanctioned for any

such violation. If the lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule and regulation for which a fine is imposed, notice of the violation shall be given to the Owner and lessee, and such fine may be assessed against the lessee in accordance with Article V, Section 2 of the Bylaws. If the fine is not paid by lessee within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines constitute a lien against the Unit as provided for herein. Any lessee charged with a violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto is entitled to the same procedure to which an Owner is entitled prior to the imposition of a fine or other sanction.

Lessee acknowledges that the violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by lessee, any Occupant, or any person living with lessee is deemed to be a violation of the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto including the power and authority to evict the lessee on behalf and for the benefit of the Owner, in accordance with the terms hereof or to require the Owner to do so. In the event the Association proceeds to evict the tenant, any costs, including attorney's fees and court costs, associated with the eviction shall be specifically assessed against the Unit and the Owner thereof, such being deemed hereby as an expense which benefits the leased Unit and the Owner thereof.

(C) Use of Common Elements. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Condominium Common Elements, including, but not limited to, the use of

any and all recreational facilities and other amenities.

(d.) Applicability of this Paragraph 18. Those Owners who are leasing units upon the effective date of this Amendment may continue to lease their Units and shall not be required to demonstrate undue hardship as a prerequisite to the leasing of their Units. However, upon conveyance or transfer of the Unit, any grantee thereof shall be subject to the provision of this Paragraph 18, in addition to all other provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto.

Leases executed after the date on which this Amendment is recorded in Cobb County, Georgia records are subject to the terms of Paragraph 18(c) above. Leases existing on the date which this Amendment is recorded in the Cobb County, Georgia records shall not be subject to the terms of Paragraph 18(c); such leases may continue in accordance with the terms of the Original Declaration as it existed prior to the recording date of this Amendment. However, any assignment, extension, renewal, or modification of any lease agreement, including, but not limited to, changes in the terms or duration of occupancy, shall be considered a termination of the old lease and commencement of a new lease which must comply with this Paragraph 18. Any Owner of a Unit which is leased on the effective date of this Amendment shall place on file with the Board of Directors a copy of the lease agreement in effect within (30) days of the date on which this Amendment is recorded in the Cobb County, Georgia records.

(e) Inapplicability to Holders of First Mortgages. This Paragraph 18 shall not apply to any leasing transaction entered into by the holder of any first Mortgage or a Unit who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage.

[SIGNATURES ON THE FOLLOWING PAGE -----
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IN WITNESS WHEREOF, the undersigned officer(s) of McClaren Mill Condominium Association, Inc. hereby certify that this Amendment was duly adopted by the requisite majority of the Association membership, with proper notices given.

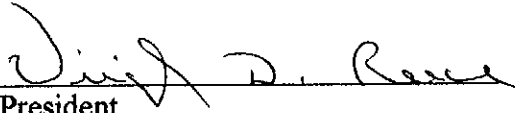
This 3 day of JUNE, 2005.

Sworn to and subscribed to before me this 3 day of JUNE, 2005.

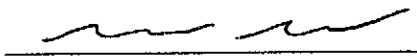
McCLAREN MILL CONDOMINIUM ASSOCIATION, INC.



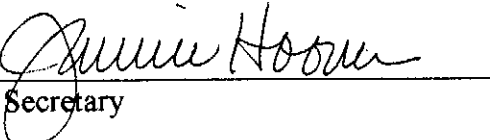
Witness

By: 

President



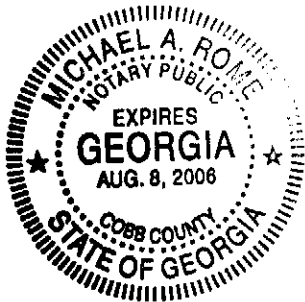
Notary Public

Attest: 

Secretary

[NOTARY PUBLIC]

[CORPORATE SEAL]



Deed Book 14175 Pg 6390
Jay C. Stephenson
Clerk of Superior Court Cobb Cty. Ga.