

Clock#: 675824
FILED FOR RECORD
6/13/2005 04:06pm
PAID: 52.00

Daniel W. Massey, Clerk
Superior Court of Chatham County
Chatham County, Georgia

WEINER, SHEAROUSE
WEITZ, GREENBERG & SHAW
14 E STATE STREET
P.O. BOX 10105
SAVANNAH, GEORGIA 31412

Space above reserved for recording

STATE OF GEORGIA)	When recorded return to:
)	Peggy A. Kreinest
COUNTY OF CHATHAM)	P.O. Box 10105
		Savannah, Georgia 31412-0305

289E
BOOK
458
PAGE

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
ORCHID ISLES

THIS DECLARATION, made on the date hereinafter set forth by BEACON BUILDERS, INC., A Georgia Corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Chatham, State of Georgia, being known as ORCHID ISLES and being more particularly described on Exhibit "A" attached hereto and by reference made a part hereof.

NOW, THEREFORE, Declarant hereby declares that all of the Property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to ORCHID ISLES HOMEOWNERS ASSOCIATION, INC., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is part of the property, but excluding those having such interest merely as security for the performance of an obligation.

WEINER, SHEAROUSE
WEITZ, GREENBERG
& SHAW, LLP
P.O. BOX 10105
SAVANNAH, GEORGIA
31412

Burice 05633-5

Section 3. "Property" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot shall be all of the area of the subdivision saving and excepting therefrom all of the individual lots to be conveyed to property owners. All of which will more particularly appear on the Subdivision Map to be recorded contemporaneously herewith. The Common Area shall be conveyed to the Association free and clear of encumbrances at the time the first Lot is conveyed to an Owner.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to BEACON BUILDERS, INC., its successors and assigns, if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Development" shall mean ORCHID ISLES, Chatham County, Georgia, a residential townhouse development.

Section 8. "Unit" shall mean a completed fee simple townhouse constructed on an individual Lot.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS THERETO

Section 1. Existing Property. The real property which is and shall be held, developed, transferred, sold, conveyed, used and occupied subject to this Declaration is located in Chatham County, Georgia, and more particularly described on Exhibit "A" attached hereto and by reference made part hereof.

Section 2. Additions to Existing Property. The Developer shall have the right to subject to this Declaration any additional property, provided that not more than ten (10) years have elapsed since the filing of the last supplementary declaration which subjects any additional Property to this Declaration.

BOOK
PAGE
389
390
459

||

ARTICLE III

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total outstanding votes in the Class B membership; or,

(b) Five (5) years following conveyance of the first Lot to an Owner.

Thereafter, the Class B member shall become a Class A member.

WEINER, SHEAROUSE
WEITZ, GREENBERG
& SHAW, LLP
P.O. BOX 10105
SAVANNAH, GEORGIA
31412

2897
BOOK
46
PAGE

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; provided, however, that the Declarant shall be exempt from such assessments until such time as a Unit owned by the Declarant is occupied or one hundred eighty (180) days after there has been issued a certificate of occupancy, whichever shall occur first. The annual and special assessments, together with interest, costs and reasonable attorney's fees incurred to collect such assessment, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees incurred to collect such assessment, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successor in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Property and for the improvement and maintenance of the Common Area, and for limited maintenance of the homes situated upon the Property.

Section 3. Maximum Annual Assessment. Until January 1, 2006, the maximum annual assessment shall be Twelve Hundred and No/100 (\$1,200.00) Dollars per Lot, which shall be paid quarterly.

(a) From and after January 1, 2006, the maximum annual assessment may be increased each year not more than five (5%) per cent above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1, 2006, the maximum annual assessment may be increased above five (5%) per cent by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount

WEINER, SHEAROUSE
WEITZ, GREENBERG
& SHAW, LLP
P.O. BOX 10106
SAVANNAH, GEORGIA
31412

not in excess of the maximum.

(d) Notwithstanding the provisions contained herein with respect to the maximum annual assessment, a special assessment consisting of a working capital fund for the initial two (2) months of the Association's operation equal to a two (2) month's estimated assessment for each Lot shall be assessed. Each Lot's share of the working capital fund shall be collected and transferred to the Association at the time of closing of the sale of each Lot and maintained in a segregated account for the use and benefit of the Association. Amounts paid into the working capital fund are not to be construed as advance payment of regular assessments. (The purpose of the fund is to insure that the Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary desirable.)

2895
BOOK
662
PAGE

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies to cast sixty (60%) per cent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment.

(a) Except as provided below, the amount of all common expenses shall be assessed equally against all Lots.

WEINER, SHEAROUSE
WEITZ, GREENBERG
& SHAW, LLP
P.O. BOX 10105
SAVANNAH, GEORGIA
31412

(b) The Board shall have the power to levy special assessments against Lots pursuant to this section, in its discretion, as it shall deem appropriate. Failure of the Board to exercise its authority under this section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section

(i) Any common expenses benefiting less than all of the Lots significantly disproportionately benefiting all Lots may be specially assessed equitably among all of the Lots which are benefited according to the benefit received.

(ii) Any common expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the occupant(s), licensees or invitees of any such Lot or Lots may be specially assessed against such Lot or Lots.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The Board of Directors of the Association shall promptly advise each Lot Owner in writing of the estimated annual amount of the assessment for each Lot as so determined by the Board of Directors and shall furnish each Owner with a copy of the budget on which such estimate is based and, upon request shall furnish a copy of such budget to the mortgagee of such Lot. If the said estimated amount proves inadequate for any such year for any reason, including nonpayment of any Lot Owner's assessments, the Board of Directors may, at any time or from time to time, levy special assessments to cover such inadequacy.

The assessments provided for herein shall be established on the assessment year basis unless and until the Board of Directors of the Association elects to establish a different and/or more frequent assessment period. The assessment obligation shall commence as to each Lot at such time of closing of the sale of each Lot or upon delivery of possession of the Lot to its purchaser, whichever shall occur first. The first year's assessment for each Lot shall be adjusted according to the number of days remaining in the assessment year after the date of such issuance and shall be paid by the Owner to the Association in equal quarterly installments on the first day of each quarter. Assessments for unsold units shall commence one hundred eighty (180) days after issuance of a certificate of occupancy for each respective unit.

The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot

WEINER, SHEAROUSE
WEITZ, GREENBERG
& SHAW, LLP
P.O. BOX 10105
SAVANNAH, GEORGIA
31412

have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Non-payment of Assessments: Remedies of the Association. Any assessment not paid within fifteen (15) days after the due date shall incur a five (5%) percent late penalty. The Association may bring an action at law against the Owner personally obligated to pay the same. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any deed to secure debt or mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a deed to secure debt or mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof. Nor shall any sale or transfer relieve any Owner from personal liability for any unpaid assessments.

ARTICLE VI

INSURANCE

Section 1. Hazard Insurance on Common Area. The Association's Board or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the Common Area. This insurance shall include fire and extended coverage, including coverage for vandalism and malicious mischief and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

Section 2. Association Liability and Directors' and Officers' Liability Insurance. The Board shall obtain a public liability policy applicable to the Common Area covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents in their capacities as such, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least one million (\$1,000,000.00) dollars.

BOOK
PAGE
289E
464

Section 3. Premiums and Deductibles on Association Policies. Premiums for all insurance obtained by the Association shall be a common expense of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

Section 4. Policy Terms. All such insurance coverage obtained by the Board shall be written in the name of the Association, as trustee, for the respective benefited parties, as further identified in subparagraph (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in Georgia.

(b) All policies on the Common Area shall be for the benefit of the Association and its members. Any policies covering improvements on Lots shall be for the benefit of Lot Owners and their Mortgagees, as their interest may appear.

(c) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Board hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.

(e) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available.

(f) The Board shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

i. a waiver of subrogation by the insurer as to any claims against the Board, the Association's manager, the Owners and their respective tenants, servants, agents, and guests;

ii. a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

iii. a provision that no policy may be canceled, invalidated, suspended

289E
BOOK
465
PART

or subjected to non-renewal on account of any one or more individual Owner(s);

iv. a provision that no policy may be canceled, invalidated, suspended, or subjected to non-renewal on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized agent without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its agent, any Owner or Mortgagee;

v. that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

vi. that no policy may be canceled or substantially modified or subjected to non-renewal without at least thirty (30) days' prior written notice to the Association.

(g) Additional Association Insurance. In addition to the other insurance required by this Article, the Board shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds or dishonesty insurance. The amount of fidelity coverage or dishonesty insurance shall be determined in the directors' best business judgment, but if reasonably available, shall not be less than three (3) months assessments plus a reasonable amount to cover all or a reasonable portion of reserve funds in the custody of the Association at any time during the term of the bond; provided, however, that fidelity coverage herein required may be reduced based on financial controls which take one or more of the following forms: (a) the Association or management company, if any, maintains a separate bank account for the working account and the reserve account, each with appropriate access controls and the bank in which funds are deposited sends copies of the monthly bank statements directly to the Association; (b) the management company, if any, maintains separate records and bank accounts for each association that uses its services and the management company does not have the authority to draw checks on, or to transfer funds from, the Association's reserve account; or (c) two Board members must sign any checks written on the reserve account. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be canceled, substantially modified, or subjected to non-renewal without at least thirty (30) days prior written notice to the Association.

The Association shall also obtain construction code endorsements, steam boiler coverage, and

289E
BOOK
466

flood insurance, if and to the extent necessary to satisfy the requirements of The Mortgage Corporation or the Federal National Mortgage Association.

(h) Individual Lot Owner Insurance. Each Owner shall carry blanket all-risk casualty insurance, if reasonably available, or if not reasonably available, fire and extended coverage, on his or her Lot and Unit constructed thereon meeting the same requirements as set forth in subparagraphs (a) and (c) of this Article for insurance on the Common Area. Each Owner further covenants and agrees that, in the event of damage and destruction of the Unit on his Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged Unit in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article VIII of this Declaration. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. If the structure is totally destroyed and a determination is made not to rebuild or to reconstruct, the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction, and thereafter the Owner shall continue to maintain the Lot in a neat and attractive condition consistent with the established community standard.

(i) Insurance Deductibles. In the event of an insured loss under the Association's casualty policy, any required deductible shall be considered a maintenance expense to be paid by the Association or the Person or Persons who would be responsible for such loss in the absence of insurance in the same proportion for which they otherwise would be responsible bears to the total damage incurred. If any Owner fails to pay the deductible when required hereunder, then the Association can pay the deductible and assess the cost to the Owner or Owners pursuant to Article V, Section 6 hereof.

It shall be the duty of the Board of Directors at least every two (2) years to conduct an insurance review to determine if the policy in force is adequate to meet the needs of the Association. Such responsibility may be performed, and shall be deemed reasonably performed, by the Board requesting the Association's insurance agent to verify that insurance policies in existence meet the needs of the Association.

ARTICLE VII

EXTERIOR MAINTENANCE

Section 1. Association's Responsibility. In addition to the maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Unit to the extent

BOOK
PAGE
289
497

that the need for such maintenance work is common amongst all Units so that it can be economically performed as a group service benefiting all Units at one time. Such exterior maintenance work shall be funded either through the annual assessments or special assessments, as required. The Association's exterior maintenance shall include, but is not limited to the periodic painting, staining or pressure cleaning of exterior surfaces of the Units (excluding windows), including exterior window frames, and entry doors and door frames facing the outside of the Units, maintenance of the roofs and common fences between the Units. In addition, the Association will maintain the front lawn and landscaping of each Unit on a schedule to be determined by the Board of Directors.

Section 2. Owner's Responsibility. The maintenance responsibility of the Owner of each Unit, shall include, but not be limited to, the appropriate day-to-day care of all exterior surfaces including windows, screens and window frames (including caulking of windows); the care of all doors, doorways, doorframes and hardware that are part of the entry system of the Unit; the maintenance of all portions of the heating and air conditioning system serving the Unit; and the maintenance of all pipes, lines, ducts, conduits, or other apparatus which serve only the individual Unit, whether located within or without the Unit. Additionally, the Unit Owner shall maintain the lawn and landscaping in the Unit's backyard.

In the event that the need for maintenance or repair of a Lot or the improvements thereon is caused through the willful or negligent acts of its Owner, or through the willful or negligent acts of the family, guests or invitees of the Owner of the Lot needing such maintenance or repair, the cost of such exterior maintenance or repair shall be added to and become a part of the assessment to which such Lot is subject.

ARTICLE VIII

ARCHITECTURAL CONTROL

No building, fence, wall, or other structure shall be commenced, erected or maintained upon the Property, other than those constructed by the Declarant, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event

WEINER, SHEAROUSE
WEITZ, GREENBERG
& SHAW, LLP
P.O. BOX 10105
SAVANNAH, GEORGIA
31412

said Board, or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by an Owner to enforce any provision herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Term. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless at the expiration of any twenty (20) year term or any ten year extension period the covenants and restrictions are expressly terminated by an instrument signed by not less than seventy-five (75%) percent of the Owners. A termination must be recorded.

Section 4. Information. The Association is required to make available to Owners and lenders, and to holders, insurers or guarantors of any first mortgage, or deed to secure debt current copies of the Declaration, Bylaws, other rules concerning the Development and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances. Any holder of a first mortgage or deed to secure debt is entitled, upon written request, to a financial statement for the preceding fiscal year of the Association.

Section 5. Contracts. The Association, prior to passage of control, shall not be bound either directly or indirectly to contracts or leases (including a management contract) unless there is a right of termination of any contract or lease without cause, which is exercisable without penalty at any time after transfer of control, upon not more than ninety (90) days notice to the

other party thereto; provided, however, that no contract shall be terminated prior to the end of its initial term, which initial term shall not exceed one (1) year.

Section 6. Emergency Repairs. The Association shall have a reasonable right of entry upon any Lot to make any emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Development.

Section 7. Permits. The Association shall have the right to grant permits, licenses and easements over the Common Area for utilities, roads or other purposes reasonably necessary useful for the proper maintenance and operation of the Development.

Section 8. Lender's Notice. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Lot number or address, any such eligible mortgage holder or eligible insurer or guarantor will be entitled to a timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Development or any one Lot upon which there is a first mortgage or deed to secure debt held, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;

(b) Any delinquency of assessments or charges owed by an owner subject to a first mortgage or deed to secure debt held, insured or guaranteed by such eligible holder or eligible insurer or guarantor, which remains uncured for a period of sixty (60) days;

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) Any proposed action which would require the consent of a specified percentage of mortgage holders.

Section 9. Recreational Facilities. Any facilities constructed within the Common Area of the Development (should there be any constructed) submitted to this Declaration shall be owned by the Association and the Board of Directors shall have the right to promulgate Rules and Regulations of the use of such facilities by the Owners.

Section 10. Easement. Declarant hereby reserves for itself, its agents, assigns, invitees and designees, an easement of ingress and egress for pedestrian and vehicular access across the

BOOK
289E
470

WEINER, SHEAROUSE
WEITZ, GREENBERG
& SHAW, LLP
P.O. BOX 10165
SAVANNAH, GEORGIA
31412

streets, roads, parking facilities and Common Areas of the Property and a blanket easement for the construction and repair of utilities upon the Property.

ARTICLE X

RESTRICTIONS ON GENERAL USE

The use of the Lots shall be in accordance with the following provisions:

Section 1. Residential Use. Each Unit is hereby restricted to use by its Owner, the Owner's family, servants and guests, tenants or lessees, as a residence only and shall in no event be used at any time for any purpose other than residential purposes.

The Declarant and its duly authorized agents, representatives and employees shall have the right to maintain a sales office and one or more model Units within the Development so long as Declarant owns any undeveloped property or any Lot for the purpose of sale.

Section 2. No Subdivision. No Lot may be divided or subdivided into a smaller Lot, nor any portion thereof separately sold, leased, rented or otherwise transferred. No structure of a temporary character, basement, trailer, tent, shack, carport or other outbuilding shall be erected or used as a residence or for any other purpose on any portion of the Property at any time.

Section 3. Obstruction Of Common Area. There shall be no obstruction of Common Area, nor shall anything be stored in the Common Area without the prior written consent of the Board of Directors.

Section 4. No Hazardous Materials. Nothing shall be done or kept on any Lot or in the Common Area which will increase the rate of insurance on any portion thereof, without the prior written consent of the Board of Directors. No Owner shall permit anything to be done or kept on his Lot or in the Common Area which will result in the cancellation of insurance on any portion thereof, or which would be in violation of any law. No waste will be permitted on the Common Area

Section 5. Exterior Decorations. Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls, doors, patios, decks or balconies of any portion of the Property, and no sign, awning, canopy, shutter or radio or television antenna shall be affixed to or placed upon the exterior walls or doors, roof, decks, patios or balconies or any part thereof or exposed on or at any window without the prior written consent of the Board of Directors. All interior window treatments, blinds, shutters, shears,

289 E
BOOK
471

WEINER, SHEAROUSE
WEITZ, GREENBERG
& SHAW, LLP
P.O. BOX 10105
SAVANNAH, GEORGIA
31412

curtains, drapes, and coverings which are visible to the outside shall be of white, beige, off-white or opaque coloring, unless otherwise approved by the Board of Directors.

Section 6. Nuisances. No noxious or offensive activity shall be maintained or carried on on any Lot or in the Common Area, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to any other Owner or occupant. No Owner shall make or permit any disturbing noise on the Property, or any portion thereof, by himself, his family, servants, guests, tenants or lessees, nor do or permit anything by any of such persons that will interfere with the rights, comfort or convenience of other Owners. No clothes, sheets, blankets, laundry or any kind of other article shall be hung out of a building or exposed on a patio, deck or balcony or on any part of the Common Area. The Common Area and each Lot shall be kept free and clear of rubbish, debris and other unsightly materials, objects, or decorations.

Section 7. Advertising Signs. All "For Sale", "For Rent", or "For Lease" signs placed by any Owner on any part of the Property or in any building therein will conform to such regulations which specify size, shape, color and placement as may be adopted by the Board of Directors, but in no event will any sign be larger than eighteen inches (18") by twenty-four inches (24"). No other window displays or advertising shall be maintained or permitted on any Lot; provided, however, that Declarant and his duly authorized agents, representatives and employees shall have the right to maintain advertising, office, model and for sale signs on the Property so long as Declarant owns any undeveloped property or Lot for the purpose of sale.

Section 8. Garbage Containers. No garbage cans shall be placed in the Common Areas, except as may be of a design and at a location approved by the Board of Directors. Each Unit will provide it's own garbage container.

Section 9. Parking Areas. Except in designated areas, if any, parking areas located on the Common Area shall be used for no purpose other than to park the personal vehicles of Owners, their guests, tenants and lessees, specifically excluding commercial vehicles, trailers, campers, recreational vehicles, motor homes, boats, and disabled vehicles or vehicles under repair. This prohibition shall not apply to the temporary parking of service vehicles used for maintenance purposes or temporary parking of prohibited vehicles for loading and unloading purposes.

WEINER SHEARGOUSE
WEITZ GREENBERG
& SHAW, LLP
P.O. BOX 10105
SAVANNAH, GEORGIA
31412

BOOK
PAGE

Section 10. Common Area Use. No planting or gardening shall be done and no fences, hedges or walls shall be erected or maintained within the Common Area except as the Board of Directors, in its sole discretion, may deem appropriate. No sidewalks, doorsteps, entrances and passageways shall be obstructed, encumbered or used other than for the ingress or egress to and from units. These restrictions are for the mutual benefit, safety and protection of all Owners, residents and visitors.

Section 11. Other Restrictions, Rules and Regulations. The Association, through its Board of Directors, shall have the authority to promulgate and publish such additional restrictions, rules and regulations governing the use of the Common Area, as deemed necessary to insure the protection and beneficial enjoyment thereof by all Owners. The Board of Directors shall be empowered to enforce compliance with the provisions of this Declaration, the Bylaws of the Association and any rules and regulations adopted by it. All costs incurred by the Association to enforce a provision in the Declaration, Bylaws or other Rules and Regulations promulgated by the Association, including reasonable attorney's fees, may be assessed against the Owner in violation of the provision, and collected as an assessment pursuant to this Declaration.

ARTICLE XI

CONDEMNATION, LOSS OR DESTRUCTION

Section 1. Condemnation. The Association shall represent the Owners in any condemnation proceeding or in negotiations, settlements and agreements with any condemning authority for acquisition of the Common Area, or any part thereof. For such purpose, the Owners hereby appoint the Association as attorney-in-fact. In the event of such a taking, the award or proceeds of settlement shall be payable to the Association for the use and benefit of the Owners and their mortgagees as their interest may appear.

Section 2. Partial Loss or Destruction. The Association shall represent the Owners in any proceedings, claims or negotiations in connection with partial loss or destruction of the Common Area. For such purpose, the Association is named by the Owners as attorney-in-fact. In the event of any such partial loss or destruction, any award or proceeds of settlement shall be payable to the Association for the use and benefit of the Owners and their mortgagees as their interests may appear.

WEINER SHEAROUSE
WEITZ, GREENBERG
& SHAW, LLP
P.O. BOX 10705
SAVANNAH, GEORGIA
31412

2897
BOOK
PAGE

ARTICLE XII

LENDERS RIGHTS

To the extent permitted by law, lender shall be afforded the following rights:

Section 1. Restoration or Repair. Any restoration or repair of damaged Lots, after partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the original plans and specifications, unless other action approved by lenders holding Deeds to Secure Debt on Lots which have at least fifty-one (51%) per cent of the votes of Lots subject to Deeds to Secure Debt.

Section 2. Election to Terminate. Any election to terminate the legal status of the development after substantial destruction or a substantial taking in condemnation of the development must require the approval of the lenders holding Deeds to Secure Debt on Units which have fifty-one (51%) per cent of the votes of Units subject to Deeds to Secure Debt.

Section 3. Reallocation of Interest. Unless the formula for reallocation of interest in the Common Areas after a partial condemnation or partial destruction of the Development is fixed in advance by applicable law, no reallocation of interest in the Common Area resulting from the partial condemnation or partial destruction of the Development may be effective without the prior approval of lenders holding deeds to secure debt on all remaining Units whether existing in whole or in part, and which have at least fifty-one (51%) per cent of the votes of such remaining units subject to deeds to secure debt.

Section 4. Professional Management. In the event professional management has been previously required by any lender or insurer or guarantor, any decision to establish self-management by the Association shall require the prior consent of Owners of Lots to which at least sixty-seven (67%) per cent of the votes in the Association are allocated and the approval of lenders holding deeds to secure debt on Units which have at least fifty-one (51%) per cent of votes of Units subject to deeds to secure debt.

ARTICLE XIII

MODIFICATION

By recorded supplement, this Declaration may be modified:

Section 1. By Declarant until such time as Declarant shall have relinquished control of the Association as provided herein, except that any modification concerning termination of the legal status of the development or adding or amending material provisions as described in

WEINER, SHEAROUSE
WEITZ, GREENBERG
& SHAW, LLP
P.O. BOX 10105
SAVANNAH, GEORGIA
31412

289E
BOOK
474

paragraph (2) hereof shall require the requisite consent described in paragraph (2) hereof; and, thereafter;

Section 2. By the affirmative action of seventy-five (75%) per cent of the votes of the Association at a meeting called and held in the manner prescribed in the Bylaws for amendments thereof; provided, however, that the consent of Owners to which at least seventy-five (75%) per cent of the votes of the Association are allocated and the approval of the lenders holding deeds to secure debt on Lots which have at least seventy-five (75%) per cent of the votes of Lots subject to deeds to secure debt shall be required to terminate the legal status of the Development. Provided further, however, the consent of the Owners of Lots to which at least seventy-five (75%) per cent of votes in the Association are allocated and the approval of lenders holding deeds to secure debt on Lots which have at least fifty-one (51%) per cent of the votes of Units subject to deeds to secure debt shall be required to add or amend any material provisions to this Declaration which establish, provide for, govern or regulate any of the following:

- (a) Votes;
- (b) Assessments, assessment liens or subordination of such lien
- (c) Reserves for maintenance, repair and replacement of Common Area or Lots;
- (d) Insurance or fidelity bonds;
- (e) Rights to use of the Common Area;
- (f) Responsibility for maintenance and repair;
- (g) Expansion or contraction of the development or the addition, annexation or withdrawal of property to or from the Development, except as provided hereinbefore;
- (h) Boundaries of any Lot;
- (i) The interest of the general Common Area;
- (j) Convertibility of Lots into Common Area or Common Area into Lots;
- (k) Leasing of Lots;
- (l) Imposition of any right of first refusal or similar restriction on the right of Lot Owners to sell, transfer or otherwise convey his or her Lot;
- (m) Any provisions which are for the express benefit of lenders, holders, insurers or guarantors of first deeds to secure debt.

WEINER, SHEAROUSE
WEITZ, GREENBERG
& SHANE, LLP
P.O. BOX 10105
SAVANNAH, GEORGIA
31412

(n) Any addition or amendment to this Declaration shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. Any lender who receives a written request to approve additions or amendments and who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

ARTICLE XIV
EASEMENTS AND PARTY WALLS

289E
BOOK
475

Section 1. Easements for Encroachments. If any portion of the Common Area encroaches upon any Lot or any Unit encroaches upon any Common Area or another Lot as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the improvements, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists. This easement for encroachment includes, but is not limited to, eaves, decks, balconies, porches and overhangs.

Section 2. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the units upon the Property and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 3. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 4. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions.

Section 5. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 6. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall

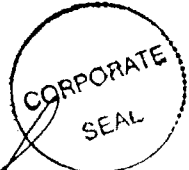
pass to such Owner's successors in title.

Section 7. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Declaration, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set his hand and affixed his seal this 14th day of May, 2005.

BEACON BUILDERS, INC.

By: [Signature]
CORDE WILSON, III, President



Attest: [Signature]

Its: Assistant Secretary

BOOK PAGE
289E 477

Executed in the presence of:

[Signature]
Witness

[Signature]
Notary Public

PATRICIA A. SULLIVAN
Notary Public, Chatham County, GA
My Commission Expires August 16, 2005



WEINER, SHEAROUSE
WEITZ, GREENBERG
& SHAW, LLP
P.O. BOX 10100
SAVANNAH, GEORGIA
31412