

Deed Book 15365 Pg 4606
Filed and Recorded Aug-17-2016 08:44am
2016-0098342
Real Estate Transfer Tax \$0.00
Georgia Intangible Tax Paid \$0.00

Rebecca Keaton
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Clerk of Superior Court Cobb Cty. Ga.



Return to:
Robert S. Stein
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STATE OF GEORGIA

Reference:

Deed Book 11375

COUNTY OF COBB

Page 418

**FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
FOX CHAPEL SUBDIVISION**

WHEREAS, the Declaration of Covenants, Conditions, Restrictions and Easements for Fox Chapel Subdivision was recorded June 10, 1998, in Deed Book 11375, Page 418, et seq., Cobb County, Georgia Records ("Declaration"); and

WHEREAS, Article VIII, Section 7 of the Declaration provides that the Declaration may be amended at any time and from time to time by an agreement signed by at least 75% of the Owners of Lots, provided, however, such amendment by the Owners shall not be effective unless also signed by Declarant, if Declarant is the owner of any real property then subject to the Declaration; and

WHEREAS, Article VIII, Section 7 provides that the amendment to the Declaration shall not be effective until the instrument evidencing such change has been filed of record in the office of the Clerk of Superior Court of Cobb County, Georgia; and

WHEREAS, this Amendment has been approved by at least seventy-five (75%) of Owners of Lots by owners signing individual amendment agreement instruments which shall be maintained in the records of the Fox Chapel HOA, Inc. ("Association") and are incorporated herein as set forth in Bowman v. Walnut Mountain Property Owners Association, Inc., 251 Ga. App. 91; 553 S.E.2d 389 (2001); and

WHEREAS, the Declarant was set forth in the original Declaration as King Springs, LLC; and **WHEREAS**, the Declarant is not the owner of any real property subject to the Declaration; and **WHEREAS**, this First Amendment is an instrument evidencing the changes approved by the Owners; and

WHEREAS, this amendment does not alter, modify, change or rescind any right, title, interest or privilege granted or accorded by the Declaration to any mortgage holder of any Lot; provided, however, in the event a court of competent jurisdiction determines that this amendment does so without such mortgage holder's written consent, then this amendment (or such portion thereof) shall not be binding on the mortgage holder so involved, unless such mortgage holder consents hereto; and if such consent is not forthcoming, then the provisions of the Declaration prior to this Amendment shall control with respect to the affected mortgage holder; and

NOW THEREFORE, the Declaration of Covenants, Conditions, Restrictions and Easements for Fox Chapel Subdivision is hereby amended as follows:

1.

Article I is amended by the addition of the following as Section 13:

Section 13. "Act" means the Georgia Property Owner's Association Act, O.C.G.A. Section 44-3-220, et seq. (Michie 1982), as may be amended.

2.

Article III is amended by the addition of the following:

Section 3. Submission to Georgia POA Act. The name of the Community is Fox Chapel Subdivision, which is a residential property owners' development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq. (Michie 1982), as may be amended. The Association lien shall have the priority as set forth in the Act

3.

The second sentence of Article V, Section 1 is amended by adding the words "actually incurred" after the words "reasonable attorney's fees".

4.

Article V, Section 1 is amended by removing the last two sentences thereof and replacing them with the following:

Each such assessment, together with interest, late charges, costs and reasonable attorney fees actually incurred (all in the maximum amount allowed by the Act) shall be: (1) a charge and a continuing lien against such Lot; and (2) the personal obligation of the person who is the Owner of the Lot on the due date of the assessment. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance of the Lot.

5.

Article V, Section 8 is amended by removing the words "at the rate of eighteen percent (18%) per annum" and substituting the words "maximum rate provided by the Act, currently being ten percent (10%) per annum."

6.

Article VIII, Section 4 of the Declaration is hereby deleted in its entirety and the following new Section 4 is substituted thereof:

Section 4. Duration. This Declaration shall run with and bind the Property perpetually to the extent provided in the Act.

7.

Article VIII, Section 7 of the Declaration is hereby amended by deleting that Section in its entirety and substituting the following in its place:

Section 7. Amendment. This Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members of the Association holding at least 2/3 (two-thirds) of the total eligible vote thereof. Notice of a meeting, if any, at which a proposed amendment will be considered, shall state the fact of consideration and subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and filed in the Cobb County, Georgia land records.

Georgia land records.

Notwithstanding the foregoing, the board of directors, without the necessity of a vote from the Owners, may amend this Declaration to comply with the Act, any applicable state, city or federal law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mac"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA").

IN WITNESS WHEREOF, IN WITNESS WHEREOF the undersigned officers of the Fox Chapel HOA, Inc. hereby certify that the above amendments to the Declaration were duly adopted by at least seventy-five (75%) of the Owners of Lots signing individual consent forms, which forms will be maintained in the records of Fox Chapel HOA, Inc., as permitted in Bowman v. Walnut Mountain Property Owners Association, Inc. 251 GA App. 91, 553 S.E. 2d 389 (2001), and which are incorporated herein by this reference.

This 8th day of August, 2016.

SWORN TO AND SUBSCRIBED
BEFORE ME this 8th day
of August, 2016.

FOX CHAPEL HOA, INC.

[Signature]
Witness

By: [Signature] [Seal]
President

[Signature]
Notary Public

Attest: [Signature] [Seal]

My Commission Expires: Notary Public, Cobb County, Georgia
My Commission Expires June 19, 2020

