



STATE OF GEORGIA
COUNTY OF COBB COUNTY



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Rebecca Keaton
Rebecca Keaton
Clerk of Superior Court Cobb Cty. Ga.

Cross Reference: Deed Book 14432, Page 4062.

AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS FOR DOGWOOD PARK & THE BYLAWS FOR
DOGWOOD PARK HOMEOWNERS ASSOCIATION, INC.

This Amendment to the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Dogwood Park ("Amendment") is made on the date hereinafter set forth by Dogwood Park Homeowners Association, Inc. ("Association").

WITNESSETH

WHEREAS, PACIFIC 3, LLC recorded that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for Dogwood Park subdivision, on December 28, 2006, in Deed Book 14432, Page 4062, et seq., in the public land records of Cobb County, Georgia, ("Declaration"); and

WHEREAS, Section 11.6 of the Declaration allows the Board of Directors ("Board") for the Association to elect that the Declaration be governed by and complying with the provisions of the Georgia Property Owners' Association Act (O.C.G.A. 44-3-220, et. seq.) and Section 6.4 of the Bylaws for the Association allows the Board to amend the Bylaws to comply with the Georgia Property Owners' Association Act; and

WHEREAS, after a properly noticed meeting and required quorum was obtained, the Board of Directors voted to submit the Declaration to the Georgia Property Owners' Association Act (O.C.G.A. 44-3-220, et. seq.) and amend the Bylaws to comply with the Georgia Property Owners' Association Act; and

WHEREAS, the following amendments are not material with respect to first mortgagees in that the amendments do not materially and adversely affect the security title or interest of any first mortgagee; provided, however, in the event a court of competent jurisdiction determines the amendments or a portion of the amendments materially and adversely affect the security title or interest of any first mortgagee without such first mortgagee's consent to the amendments, then the amendments so determined by the court shall not be binding on the first mortgagee so involved, unless such first mortgagee consents to this amendment; and if such consent is not forthcoming, then for those amendments so determined by the court the corresponding provisions of the Declaration prior to this amendment shall control with respect to the affected first mortgagees.

NOW, THEREFORE, the Declaration and Bylaws are hereby amended as follows:

THIS AMENDMENT HERBY SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA
PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. SECTIONS 44-3-220, ET. SEQ.,

CLOSING ATTORNEYS AND TITLE EXAMINERS MUST CONTACT THE ASSOCIATION FOR
INFORMATION REGARDING LIENS, DELINQUENCIES, AND OTHER COVENANT VIOLATIONS.

1.

The following sentence is added to the end of the preamble on page one of the Declaration:

The Community constitutes 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 such act may be amended from time to time.

2.

A new Section 1.0 is added as follows:

1.01 "Act" shall mean the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq. (Michie 1982), as such Act may be amended from time to time.

3.

Section 4.2 is hereby deleted in its entirety, and the following is substituted in its place:

4.2 Creation of the Lien and Personal Obligation of Assessments. *Each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association for each Lot owned: (a) annual assessments or charges; (b) special assessments, such assessments to be established and collected as hereinafter provided; and (c) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration or Bylaws. The Association, in the Board's discretion, may, but shall not be obligated to, record a Statement of Delinquent Assessments & Notice of Statutory Lien on the County lien records. The lien provided for herein shall have priority as provided in the Act.*

All such assessments, together with late charges, interest, costs, and reasonable attorney fees actually incurred (including post-judgment attorney fees, costs & expenses), and if the Board so elects, rents, in the maximum amount permitted under the Act, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the assessment fell due. Other than provided below, the grantee in a conveyance of a Lot shall be jointly and severally liable with the grantor thereof for all unpaid assessments against the latter up to the time of the conveyance without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee; provided, however, that if the grantor or grantee shall request a statement from the Association as provided in Section 4.11, such grantee and his or her successors, successors-in-title, and assigns shall not be liable for nor shall the property owners' Association Lot conveyed be subject to a lien for any unpaid assessments against such grantor in excess of any amount set forth in the statement.

In the event that the holder of a first priority mortgage or secondary purchase money mortgage of record, provided that neither the grantee nor any successor grantee on the secondary purchase money mortgage is the seller of the Lot, or in the event that any other person acquires title to any Lot as a result of foreclosure of any such mortgage, such holder or other person and his or her successors, successors-in-title, and assigns shall not be liable for nor shall the Lot be subject to any lien for assessments or under any instrument chargeable to the Lot on account of any period prior to the acquisition of title; provided, however, that the unpaid share of an assessment or assessments shall be deemed to be a common expense collectable from the grantor/prior owner, and his or her successors, successors-in-title, and assigns.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board; unless otherwise provided by the Board, annual assessment shall be paid on the first day of the Association's fiscal year. If the Board so elects, assessments may be paid in installments, but if any Owner is delinquent in the payment of any assessments or other charges the Board may require any unpaid installments to be paid in full immediately.

4.

Section 4.7 is hereby deleted in its entirety, and the following is substituted in its place:

Section 4.7 Effect of Nonpayment of Assessments: Remedies of the Association.

(a) Late Charges, Interest, Other Collection Fees and Suspension.

Any assessments, installments or other charges, which are not paid when due shall be considered delinquent, and shall incur a late charge equal to the greater of ten dollars (\$10.00) or ten (10%) percent of the amount not paid, or such higher amounts as may be authorized by the Act. The delinquent assessments, including late charges, shall incur simple interest at the rate of ten percent (10%) per annum, or such higher amounts as may be authorized by the Act.

The Association shall also be entitled to costs of collection, including court costs, and reasonable attorney's fees actually incurred (including post-judgment attorney fees); the expenses required for the protection and preservation of the Lot, and the fair rental value of the Lot from the time of the institution of an action until the sale of the Lot at foreclosure or until judgment rendered in the action is otherwise satisfied.

The Association may levy other fees provided or permitted by law, including charges for returned check. The Association may also file a Statement of Delinquent Assessments & Notice of Statutory Lien on the county lien records. If the Board permits payment of the annual assessments in installments, and any assessment or other charge is not paid in full within ten (10) days of the due date, then the Board may accelerate and declare immediately due and payable any remaining installments of the annual assessment.

If any assessments, installments or other charges remain unpaid for more than thirty (30) days the voting rights of a Lot Owner and the right of an Owner to use the common areas and/or recreational facilities shall be automatically suspended without notice until such time as the balance is paid in full or unless otherwise restated in writing by the Association.

(b) Partial Payments.

Partial payments shall not constitute payment in full, unless agreed to in writing by the Association. Any partial payments shall be applied in the following order of priority: post-judgment reasonable attorney's fees, costs, and expenses actually incurred, then to reasonable attorney's fees and costs actually incurred and not reduced to a judgment, then to interest, then to late charges, then to delinquent assessments and then to current assessments. Late charges may be assessed on delinquencies which are created by the application of current payments to outstanding delinquent assessments or charges. All of the foregoing shall be applicable notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment, including an offer of accord and satisfaction in settlement of a bona fide dispute. The Association may, but shall not be obligated to, allow any delinquent assessments, fines, or fees to be paid in installments, and may charge a reasonable service fee thereon.

(c) Suit and Foreclosure of Lien.

(i) Suit. In the event that the assessment, fine or other charges, or any part thereof, remain unpaid after thirty (30) days, the Association may, as the Board shall determine, institute suit to collect such amounts (and/or to foreclose its lien pursuant to paragraph (ii) below) and may recover all costs and reasonable attorney fees actually incurred up to the extent allowed by the Act and Georgia law. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt.

(ii) Foreclosure. Not less than 30 days after notice is sent by certified mail or statutory overnight delivery, return receipt requested, to the Lot Owner both at the address of the Lot and at any other address or addresses which the Lot Owner may have designated to the Association in writing, the lien may be foreclosed by the Association by an action, judgment, and court order for foreclosure in the same manner as other liens for the improvement of real property, subject to superior liens or encumbrances, but any such court order for judicial foreclosure shall not affect the rights of holders of superior liens or encumbrances to exercise any rights or powers afforded to them under their security instruments. The notice provided for in this subsection shall specify the amount of the assessments then due and payable together with authorized late charges and the rate of interest accruing thereon. No foreclosure action against a lien arising out of this subsection shall be permitted unless the amount of the lien is at least \$2,000.00. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, encumber, and convey the same.

(d) Rent Deduction for Delinquent Assessments.

When an Owner who is leasing a Lot fails to pay any assessment or any other charge against the Lot 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 demand by the Board, lessee shall pay to the Association all unpaid assessments and other charges payable during the remaining term of the lease and any other period of occupancy by the lessee; provided that 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 Association'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 the lessee fails to comply with the Board's demand to pay assessments or other charges to the Association, lessee shall be personally obligated to 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 the Owner would otherwise be responsible.

5.

Section 4.11 is hereby deleted in its entirety and the following is substituted in its place:

4.11 Statement of Account/Estoppel Letter. Any Owner, mortgagee, or a person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against a Lot. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the payment of a reasonable fee as authorized under the Act as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Lot as of the date specified therein, if such statement is reasonably relied upon in connection with the issuance of any mortgage on such Lot.

If the Association does not require payment of the fee as a prerequisite to providing the statement of account, or if the statement of account is requested within a period shorter than five (5) business days, the Association, or its agent, may subsequently charge a reasonable fee in an amount larger than the maximum amount set by the Act, including any late payment fees, or other related costs including but not limited to fax, overnight delivery, research fee, and reasonable attorney fees actually incurred. If the statement of account is requested within a period shorter than three (3) business days, the Association or its agent may also charge a rush fee.

The Association, or its agent, may charge for ancillary expenses unrelated to providing the statement of account, including but not limited to: title transfer fees, providing copies of the governing documents, and providing completed lender questionnaires. If any of the above-related fees are not paid in full the Association shall not be obligated to release any liens. The unpaid fees and costs shall be the responsibility of the Seller/Owner, shall be considered an assessment on the Lot, and may be collected as provided in these covenants for other assessments, including the filing of a Statement of Delinquent Assessments & Notice of Statutory Lien on the county records.

6.

Section 11.4 is hereby deleted in its entirety, and the following is substituted in its place:

11.4 Duration. *The covenants and restrictions of this Declaration shall run with and bind the Properties perpetually to the extent allowed by the Act.*

7.

Section 11.6 is hereby deleted in its entirety, and the following is substituted in its place:

11.6 Amendments. *This Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least two-thirds (2/3rds) of the Total Association Vote. "Total Association Vote" means all of the votes attributable to members of the Association, but does not include those Lot Owners who have had their right to vote suspended pursuant to the Declaration.*

The Board without a vote of the Owners, may amend this Declaration in order to conform and comply with any mandatory requirement of law; whether federal, state or local.

If legal action is not instituted to challenge the validity of any amendment to the Declaration within one (1) year of the recording thereof in the Cobb County, Georgia land records, then any such amendment shall be presumed to be validly approved and adopted. Every purchaser or grantee of any interest in any real property now or hereafter subject to this Declaration, by acceptance of a deed or other conveyance, hereby agrees that the Declaration may be amended as provided for in this Section.

8.

A new Section 11.20 is added as follows:

11.20 Conflicts & Order of Law. *If there are conflicts or inconsistencies between the provisions of the Act, other Georgia law, the Articles of Incorporation, the Declaration and the Bylaws, the provisions of the Act, other Georgia law, the Declaration, the Articles of Incorporation and the Bylaws (in that order) shall prevail.*

9.

The third sentence in Section 2.5 of the Bylaws for the Association entitled "Notice of Meetings" is hereby deleted in its entirety and replaced by the following in compliance with § 44-3-230 of the Act:

Notice shall be given to each Owner at least twenty-one (21) days in advance of any annual or regularly scheduled meeting and at least seven (7) days in advance of any other meeting and shall state the time, place, and, for any special meeting, purpose of such meeting.

**ALL OTHER PROVISIONS OF SAID DECLARATION FOR
DOGWOOD PARK SHALL REMAIN UNCHANGED.**

IN WITNESS WHEREOF, this Amendment to the Declaration and Bylaws are executed by the undersigned Officers of the Association, and said Officers hereby attest under oath that after a properly noticed meeting and required quorum was obtained, the Board of Directors voted to submit the Declaration to the Georgia Property Owners' Association Act (O.C.G.A. 44-3-220, et. seq.) and amend the Bylaws as per the above provisions.

This 14 day of December, 2017.

DOGWOOD PARK HOMEOWNERS ASSOCIATION, INC.

(Signature) *Ebonee Clark*

BY: Ebonee Clark
[Print Name]

TITLE: President.

Meaghan Ki
WITNESS

ATTEST:

Lowanda L. Parris
SECRETARY

Sworn to, signed and sealed
before me on this 14 day of
December, 2017.

