

Jay C. Stephenson

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Clerk of Superior Court Cobb Cty. Ga.

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STATE OF GEORGIA

CROSS REFERENCE: Deed Book 11937
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COUNTY OF COBB

**AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS FOR OAK RIDGE SUBDIVISION
AND SUBMISSION TO THE
GEORGIA PROPERTY OWNERS' ASSOCIATION ACT ("POAA")**

WHEREAS, MBW Development Corporation, Inc., ("Developer") recorded a Declaration of Covenants, Conditions, Restrictions, and Easements for Oak Ridge Subdivision on December 2, 1998, in Deed book 11937, Page 69, et. seq., Cobb County, Georgia, records (hereafter the "Original Declaration"); and

WHEREAS, the Original Declaration, has been amended as follows:

Amendment recorded on March 22, 1999, in Deed Book 12314, Page 516, et seq.;

Amendment recorded on February 22, 2000, in Deed Book 13243, Page 4211; and

Amendment recorded on May 4, 2001, in Deed Book 13360, Page 1548, Cobb County, Georgia, records (hereafter collectively referred to as the "Declaration"); and

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

**CLOSING ATTORNEYS SHOULD CONTACT THE ASSOCIATION FOR ESTOPPEL CERTIFICATES
REGARDING ASSESSMENTS DUE ON LOTS.**

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Cobb County, Georgia
Clerk of Superior Court

WHEREAS, Article X, Section 5 of the Declaration provides that at any time after the Developer or any successor-in-interest to the Developer is not longer a record title Owner of at least one (1) Lot for sale, the Association, through its Board of Directors, may, without any other action being necessary, unilaterally elect to be governed by the Georgia Property Owners' Association Act ("POAA"); and

WHEREAS, Article X, Section 5 of the Declaration further provides that the only requirement for submitting to the POAA shall be for the Board to file an amendment to the Declaration evidencing such election that is signed by the Chairman of the Board and attested by any other Board Member; and

WHEREAS, the amendments provided for herein do not materially and adversely affect the security title and interest of any mortgagee requiring the approval of the Mortgagee; and

WHEREAS, the Board of Directors has elected to submit to the terms of the POAA as evidenced by this Amendment to the Declaration signed by the President (Chairman) and the Secretary of the Board of Directors.

NOW THEREFORE, the Declaration of Covenants, Conditions, Restrictions and Easements for Oak Ridge are hereby amended as follows:

1.

The Declaration is hereby amended as follows regarding submission to the Georgia Property Owners' Association Act, and related provisions:

A. Article IV is hereby amended by adding new Section 4 and Section 5 thereto as follows:

Section 4. Submission to the Georgia Property Owners Association Act. The property subjected to this Declaration 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.

Section 5. Lots subject to Act. Each Lot shall for all purposes constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration and the Georgia Property Owners' Association Act, O.C.G.A., Section 44-3-220, et seq., may be conveyed, transferred and encumbered the same as any other real property.

B. Article 1 is hereby amended by adding a new Section 13 thereto as follows:

Section 13. "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.

C. Article V, Section 1 shall be amended by deleting that section in its entirety and substituting therefore the following:

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Section 1. Creation of the Lien and Personal Obligation For Assessments. Each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges; (ii) special assessments, to be established and collected as hereinafter provided; and (iii) individual or specific assessments to be paid by the owner of any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed by the Association for violations hereunder.

All such assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred, 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. The lien provided for herein shall have priority as provided in the Act. 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. 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.

No Owner may exempt himself or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Elements, the Association's failure to provide services or perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties.

D. Article V, Section 8 is hereby amended by deleting that Section in its entirety and substituting the following therefore:

Section 8. Delinquent Assessments. All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default.

(a) If the annual assessment or any part thereof is not paid in full within thirty (30) days of the quarterly due date, or such later date as may be provided by the Board, a late charge equal to the greater of ten (\$10.00) dollars or ten (10%) percent of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner, and interest at the rate of ten (10%) percent per annum or such higher rate as permitted by the Act shall accrue from the due date. If part payment of assessments and related charges is made, the amount received may be applied by the Board, in respective order, to costs and attorney's fees, late charges, interest, delinquent assessments, and current assessments.

(b) If the Board permits payment of the annual assessments in installments, and assessments, fines or other charges, or any part thereof, due from an Owner remain delinquent and unpaid for more than thirty (30) days from the date due, then the Board may accelerate and declare immediately due all of that Owner's unpaid installments of the annual assessment with ten (10) days written notice.

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(c) If assessments and other charges or any part thereof remain unpaid more than thirty (30) days after the assessment payments first become delinquent, then the Owner's voting rights may be suspended by the Board and the Owner excluded from quorum and voting requirements, as provided in the Act, until full payment is made, and, further, the Association, acting through the Board, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the By-Laws, the Act and Georgia law and suspend the Owner's and occupant's right to use the Common Elements as provided in the Act.

E. Article V, Section 10 shall be amended by deleting the first sentence of that section in its entirety and substituting therefore the following:

Section 10. Lien for Assessments. The lien provided for herein shall have priority as provided in the Act.

F. Article V shall be further amended by adding thereto a new Section 11 that shall read as follows:

Section 11. Statement of Account. 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) days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding ten (\$10.00) dollars or such higher amount authorized by 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.

G. Article IX, Section 9 is hereby amended by deleting that Section in its entirety and substituting the following therefore:

Section 1. Duration. The covenants and conditions of this Declaration shall run with and bind the Properties perpetually to the extent provided in the Act.

H. Article IX is hereby amended by adding a new Section 10 thereto as follows:

Section 10. Amendments. Except where a higher vote is required for action under any other provisions of this Declaration, in which case such higher vote shall be necessary to amend such provision, 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 sixty-six and two-thirds (66-2/3%) percent 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 the subject matter of the proposed

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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.

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 Mae"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA").

If legal action is not instituted to challenge the validity of this Declaration or any amendment hereto within one (1) year of the recording thereof in the Cobb County, Georgia land records, then such amendment or document shall be presumed to be validly adopted.

IN WITNESS WHEREOF, the undersigned officers of the Oak Ridge Homeowners Association, Inc., hereby certify that the above Amendment to the Declaration was duly adopted by the required percentage of the Association and its membership.

This 13 day of September, 2004.

OAK RIDGE HOMEOWNERS ASSOCIATION, INC.

By: [Signature] [SEAL]
President

Attest: [Signature] [SEAL]
Secretary

[CORPORATE SEAL]

Sworn to and subscribed to
before me this 13th day of
September, 2004.

[Signature]
Witness

[Signature]
Notary Public [NOTARY SEAL]

DEBORAH A. CAMPBELL
NOTARY PUBLIC
MY COMMISSION EXPIRES AUGUST 23RD 2008



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