

WAKE COUNTY, NC 346
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
05/23/2012 AT 15:28:42

BOOK:014775 PAGE:01138 - 01161

After recording, return to VAULT BOX 39:
This instrument was prepared by:

Attn: Henry W. Jones, Jr.
Jordan, Price, Wall, Gray, Jones & Carlton, PLLC

STATE OF NORTH CAROLINA
COUNTY OF WAKE

**FOURTH AMENDMENT TO DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
BANKS POINTE SUBDIVISION**

THIS FOURTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF BANKS POINTE SUBDIVISION (also, hereinafter, "Fourth Amendment"), is made this _____ day of _____, 2011, by the Class A Members of BANKS POINTE OWNERS' ASSOCIATION, INC., a North Carolina non-profit corporation (also, hereinafter, the "Association"), Owners of Lots in Banks Pointe Subdivision.

W I T N E S S E T H:

WHEREAS, R. KIRK LEONE BUILDER, INC., a North Carolina corporation, which changed its name to R. KIRK LEONE DEVELOPER, INC., effective January 4, 2005, Declarant ("Declarant"), heretofore caused the "Declaration of Covenants, Conditions and Restrictions of Banks Pointe Subdivision" to be recorded on April 29, 2004 in the office of the Register of Deeds of Wake County, North Carolina, in Book 10792, Page 1582, Wake County Registry, which Declarant caused to be rerecorded on May 24, 2004 in the office of the Register of Deeds of Wake County, North Carolina, in Book 10834, Page 1259, Wake County Registry, for the purpose stated therein (also, hereinafter, the "Declaration"); and

WHEREAS, on May 13, 2004 Declarant caused to be recorded a "First Amendment to Declaration of Covenants, Conditions and Restrictions of Banks Pointe Subdivision" in the office of the Register of Deeds of Wake County, North Carolina, in Book 10819, Page 47, Wake County Registry; and

WHEREAS, on June 6, 2005 Declarant caused to be recorded a "Supplemental Declaration of Covenants, Conditions and Restrictions of Banks Pointe Subdivision" in the office of the Register of Deeds of Wake County, North Carolina, in Book 11398, Page 2594, Wake County Registry; and

WHEREAS, on August 1, 2005 Declarant caused to be recorded a "Second Amendment to Declaration of Covenants, Conditions and Restrictions of Banks Pointe Subdivision" in the office of the Register of Deeds of Wake County, North Carolina, in Book 11502, Page 1201, Wake County Registry; and

WHEREAS, on November 22, 2006 Declarant caused to be recorded a "Third Amendment to Declaration of Covenants, Conditions and Restrictions of Banks Pointe Subdivision" in the office of the Register of Deeds of Wake County, North Carolina, in Book 12277, Page 2272, Wake County Registry; and

WHEREAS, at least two-thirds (2/3) of the Class A Members of the Association, Owners of Lots in Banks Pointe Subdivision, desire to further amend the Declaration; and

WHEREAS, Article X, Section 4, of the Declaration provides that the Declaration may be amended by two-thirds (2/3) of each class of members; and

WHEREAS, Class B membership having ceased and terminated not later than December 31, 2008, the Association has only Class A Membership; and

WHEREAS, this Fourth Amendment has been duly approved by the assent of more than two-thirds (2/3) of Class A Members of the Association, Owners of Lots in Banks Pointe Subdivision, as required by Article X, Section 4 of the Declaration;

NOW, THEREFORE, the undersigned does hereby declare that the Declaration of Covenants, Conditions and Restrictions of Banks Pointe Subdivision shall be amended as follows:

1. The Declaration is hereby amended by amending Article I, Section 1, to delete the words "Banks Pointe Homeowners' Association, Inc." and substituting in lieu thereof the words "Banks Pointe Owners' Association, Inc." in order to conform the name of the Association with that set forth in Article I of the Articles of Incorporation filed January 18, 2005 in the office of the North Carolina Secretary of State.
2. The Declaration is hereby amended by deleting Article VIII, Section 1, thereof in its entirety and inserting in lieu thereof the following:

Section 1. BUILDING AND SITE IMPROVEMENTS; ARCHITECTURAL CONTROL COMMITTEE. Before any lot is purchased, plans and colors of paint or finish shall be approved as hereinafter described. No dwelling or other structure shall be commenced, erected or maintained upon any lot in the PROPERTIES, nor shall any exterior addition to or change in or alteration therein (including color of paint or finish) be made until the plans and specifications showing the nature, kind, shape, heights, materials, 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 an Architectural Control Committee composed of three (3) representatives appointed by the Board. In the event the Architectural Control 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, provided that such addition, change, or alteration is in general conformity with the overall plan, design, and appearance of the subdivision in general. Refusal of approval of any such plans, location or specification may be based upon any ground, including purely aesthetic and environmental considerations that in the sole and uncontrolled discretion of the Architectural Control Committee shall be deemed sufficient. One copy of all plans and related data shall be furnished to the Architectural Control Committee for its records. The Architectural Control Committee shall not be responsible for any structural or other defects in plans and specifications submitted to it or any structure erected according to such plans and specifications.

3. The Declaration is hereby amended to delete Article VIII, Section 2, thereof in its entirety.

4. The Declaration is hereby amended by deleting Article IX, Section 2, thereof in its entirety and inserting in lieu thereof the following:

Section 2. DWELLING QUALITY AND SIZE. It being the intention and purpose of the covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than which can be produced on the date these covenants are recorded for the minimum permitted dwelling size. All homes must have a minimum of 2,000 square feet of heated floor space for one story homes or 2,400 square feet of heated floor space for one and one-half to two story homes. Minor violations of 10% or less in square footage may be waived by the Association.

No mobile homes, manufactured homes or modular homes shall be erected, altered, placed or permitted to remain on any lot. No dwelling shall have or contain a metal roof, metal or vinyl siding or exposed cinder or concrete block, except that a metal roof may be allowed with the written consent of the Architectural Control Committee. Such metal or block materials shall be deemed exposed even though the same is painted completely. All materials used in the exterior construction of a dwelling shall be new building materials.

5. The Declaration, as amended by the "Second Amendment to Declaration of Covenants, Conditions and Restrictions of Banks Pointe Subdivision" heretofore recorded in Book 11502, Page 1201 of the Wake County Registry, is hereby further amended by deleting Article X, Section 6, thereof in its entirety.

6. Except as specifically amended hereinabove, the remaining provisions of the Declaration as previously amended are hereby acknowledged and reaffirmed in every respect.

7. This Fourth Amendment has been duly approved by more than two-thirds (2/3) of Class A Members of the Association;

8. This Fourth Amendment to the Declaration shall be effective upon recordation in the Wake County Registry.

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK.

WHEREFORE, the President and Secretary of the Association have hereunto affixed the corporate certification for the purpose of enacting the foregoing Fourth Amendment to the Declaration.

CERTIFICATION OF VALIDITY OF FOURTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF BANKS POINTE SUBDIVISION

By authority of its Board of Directors, the undersigned hereby certify that the foregoing instrument has been duly approved by at least two-thirds (2/3) of the Class A Members of BANKS POINTE OWNERS' ASSOCIATION, INC., a North Carolina non-profit corporation, and is, therefore, a valid Fourth Amendment to the existing Declaration of Covenants, Conditions and Restrictions of Banks Pointe Subdivision, as amended.

BANKS POINTE OWNER'S ASSOCIATION, INC.,
A North Carolina Non-Profit Corporation

By: [Signature]
Michael Zimmers President

ATTEST:
[Signature]
Dana O'Donnell Secretary

STATE OF NORTH CAROLINA
COUNTY OF WAKE

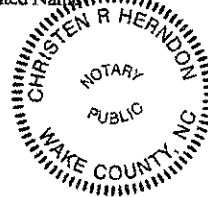
ACKNOWLEDGMENT

I, Christen R Herndon, a Notary Public of the County and State aforesaid, certify that Dana Renee O'Donnell personally came before me this day and acknowledged that s/he is Secretary of BANKS POINTE OWNER'S ASSOCIATION, INC., a North Carolina non-profit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President and attested by Dana Renee O'Donnell as its Secretary.

Witness my hand and official stamp or seal, this 21 day of May, 2011.

[Signature]
Notary Public
Christen R Herndon
Printed Name

My Commission Expires: March 4 2013



EXHIBIT

WHEREFORE, the undersigned have set their hands and seals indicating their consent to the Fourth Amendment to Declaration of Covenants, Conditions and Restrictions of Banks Pointe Subdivision:

9041 CHELSEA DR.
MICHAEL GOUVEIA
(Name of Owner & Address)
Michael Gouveia (SEAL)
(Signature as printed)

9041 CHELSEA DR.
SOFIYA GOUVEIA
(Name of Owner & Address)
Sofiya Gouveia (SEAL)
(Signature as printed)

9037 Chelsea Dr.
SEAN MONTAGUE
(Name of Owner & Address)
Sean Montague (SEAL)
(Signature as printed)

9037 Chelsea Dr.
Valerie Montague
(Name of Owner & Address)
Valerie Montague (SEAL)
(Signature as printed)

9016 Chelsea dr
Scott Manzaro
(Name of Owner & Address)
Scott Manzaro (SEAL)
(Signature as printed)

9016 Chelsea Dr
Stephanie D. Manera
(Name of Owner & Address)
Stephanie D. Manera (SEAL)
(Signature as printed)

4000 Sorrell Bros Ct
Jeffrey Hayes
(Name of Owner & Address)
Jeffrey Hayes (SEAL)
(Signature as printed)

4000 SORRELL BROTHERS CT.
Tammy Jensen-Hayes
(Name of Owner & Address)
Tammy Jensen-Hayes (SEAL)
(Signature as printed)

9049 Chelsea Dr.
William D Bell
(Name of Owner & Address)
William D Bell (SEAL)
(Signature as printed)

9049 Chelsea Dr.
Rachel D. Bell
(Name of Owner & Address)
Rachel D Bell (SEAL)
(Signature as printed)

9024 Chelsea Dr.
Dana S. Fontaine
(Name of Owner & Address)
Dana S. Fontaine (SEAL)
(Signature as printed)

9024 Chelsea Dr.
Kevin B. Fontaine
Rd. NC 27603
(Name of Owner & Address)
Kevin B. Fontaine (SEAL)
(Signature as printed)

9044 CHELSEA DR
EATON JASON TRAN
(Name of Owner & Address)
Jason Tran (SEAL)
(Signature as printed)

(Name of Owner & Address)
(SEAL)
(Signature as printed)

4008 Bankshire Lane
Gwen C Mc Mahill
(Name of Owner & Address)
Gwen C Mc Mahill (SEAL)
(Signature as printed)

R C Mc Mahill
(Name of Owner & Address)
R C Mc Mahill (SEAL)
(Signature as printed)

4001 Sorrell Brothers Ct
Paul D. Snyder
(Name of Owner & Address)
Paul D Snyder (SEAL)
(Signature as printed)

(Name of Owner & Address)
(SEAL)
(Signature as printed)

9017 Chelsea Dr.

Robert Chung
(Name of Owner & Address)

ROBERT CHUNG (SEAL)
(Signature as printed)

Rupeng AAA
(Name of Owner & Address)

RUPENG AAA (SEAL)
(Signature as printed)

9001 Chelsea Dr.
Cynthia Tyrrell
(Name of Owner & Address)

Cynthia Tyrrell (SEAL)
(Signature as printed)

Matthew S. Tyrrell
(Name of Owner & Address)

Matthew S. Tyrrell (SEAL)
(Signature as printed)

4075 Soreen Blomels Ct
LONIA M. SZABO
(Name of Owner & Address)

Lonia M. Szabo (SEAL)
(Signature as printed)

[Signature]
(Name of Owner & Address)

[Signature] (SEAL)
(Signature as printed)

9125 Banks Stone Dr
Michael Lee Curry Jr
(Name of Owner & Address)

Michael Lee Curry Jr (SEAL)
(Signature as printed)

[Signature]
(Name of Owner & Address)

[Signature] (SEAL)
(Signature as printed)

4149 Banks Stone Dr
Sarah W Baumgardner
Sarah W Baumgardner
(Name of Owner & Address)

Sarah W Baumgardner (SEAL)
(Signature as printed)

4149 BANKS STONE DR.
ALLEN GLEN BAUMGARDNER
Allen Glen Baumgardner
(Name of Owner & Address)

Allen Glen Baumgardner (SEAL)
(Signature as printed)

4145 BANKS STONE DR.
Richard Bennett
(Name of Owner & Address)

[Signature] (SEAL)
(Signature as printed)

4145 Banks Stone Dr.
Mary Ellen Bennett
(Name of Owner & Address)

[Signature] (SEAL)
(Signature as printed)

4144 Banks Stone Dr
Raleigh, NC 27603
YOUSRY V. AZMY
(Name of Owner & Address)

[Signature] (SEAL)
(Signature as printed)

4144 Banks Stone Dr.
Raleigh NC 27603
Inas Messiba
(Name of Owner & Address)

[Signature] (SEAL)
(Signature as printed)

4132 BANKS STONE DR.
Dickson W. Cobb
(Name of Owner & Address)

[Signature] (SEAL)
(Signature as printed)

4132 BANKS STONE DR.
Carolyn Cobb
(Name of Owner & Address)

[Signature] (SEAL)
(Signature as printed)

3213 BANKSWOOD DR
John M. Kozlowski
(Name of Owner & Address)

[Signature] (SEAL)
(Signature as printed)

3213 Bankswood Dr.
Stacy R. Kozlowski
(Name of Owner & Address)

[Signature] (SEAL)
(Signature as printed)

3208 Bankswood Drive
(Name of Owner & Address)

[Signature] (SEAL)
(Signature as printed)

(Name of Owner & Address)
[Signature] (SEAL)
(Signature as printed)

[Signature]