

Richard T. Alexander, Jr., Clerk of Superior Court
Gwinnett County, GA

ERECORDED
eFile Participant IDs: 8846450835,

After Recording Return To:
Lueder, Larkin & Hunter, LLC
5900 Windward Parkway, Suite 390
Alpharetta, Georgia 30005
Attn: David C. Boy, IV

Cross Reference:
Deed Book 37345, Page 43

STATE OF GEORGIA

COUNTY OF GWINNETT

**FIFTH AMENDMENT TO THE MASTER DECLARATION OF PROTECTIVE
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR VILLAGE GROVE**

This Fifth Amendment to the Master Declaration of Protective Covenants, Conditions, Restrictions and Easements for Village Grove (hereafter referred to as "Amendment") is made on the date set below.

WITNESSETH:

WHEREAS, Suwanee Junction, LLC, a Delaware limited liability company (hereafter referred to as the "Original Declarant"), recorded that certain Master Declaration of Protective Covenants, Conditions, Restrictions and Easements for Village Grove on March 9, 2004, in Deed Book 37345, Page 43 of the Gwinnett County, Georgia deed records (hereafter referred to as "Declaration");

WHEREAS, the Original Declarant assigned its rights to Vanderbilt Homes, LLC, a Georgia limited liability company (hereafter referred to as "Declarant") by a written instrument recorded on December 4, 2015 at Deed Book 53972, Page 0791 *et seq.*, of the Gwinnett County, Georgia land records;

WHEREAS, Village Grove Owners Association, Inc. (hereinafter referred to as the "Association") is the homeowners association identified in the Declaration;

WHEREAS, pursuant to Article 14, Section 14.6 of the Declaration, the Declaration may be amended upon the affirmative vote or written consent of the Owners of at least two-thirds (2/3) of the Units and the consent of the Declarant;

WHEREAS, Owners of at least two-thirds of the Units have approved this Amendment, which is evidenced by consent forms, which are on file with the Secretary of the Association and incorporated herein by this reference;

WHEREAS, on January 2, 2020, the Declarant executed a written instrument terminating all of Declarant's rights under the Declaration and that such instrument was recorded on January 31, 2020 at Deed Book 57216, Page 417 et. seq. of the Gwinnett County, Georgia land records;

WHEREAS, the Declarant's consent to this Amendment is no longer required;

NOW, THEREFORE, the Declaration is hereby amended as follows:

1.

Article 7, Section 7.3 of the Declaration is amended by striking same in its entirety and substituting the following therefor:

7.3. Leasing. In order to protect the equity of the individual Owners within the Community, to carry out the purpose for which the Community was formed by preserving the character of the Community as a residential property of predominantly owner-occupied homes, to prevent the Community from assuming the character of a renter-occupied complex, and to comply with any eligibility criteria for mortgages, including mortgages on the secondary mortgage market, insofar as such criteria provide that the Community be substantially owner-occupied, leasing of Units shall be governed by the restrictions imposed by this Section.

(a) Prohibition. Except as provided herein, the leasing of Units, including the residences thereon, is hereby prohibited.

(b) Short Term Leasing. Notwithstanding anything to the contrary herein, short-term rentals, transient tenants, and any other services utilized to temporarily rent Units as accommodations to guests or tenants (for example, Airbnb, VRBO, or other similar services) are expressly prohibited, and such rental arrangements shall be considered an impermissible business activity in violation of Article 7, Section 7.2 of the Declaration.

(c) Definitions. "Leasing," for purposes of the Declaration, is defined as the regular, exclusive occupancy of a Unit by any person or persons other than the Owner; provided, however, leasing shall not include exclusive occupancy by the spouse, child or parent of an Owner and shall not include the occupancy by a roommate of an Owner who occupies the Unit as such Owner's primary residence.

If the owner of a Unit is a corporation, limited liability company, partnership, trust, or other legal entity not being a natural person, the entity shall designate in writing to the Board of the Directors the name(s) of the natural person(s) who will occupy the Unit. To constitute a valid designation in accordance with this Section, the natural person must have a substantial relationship to the legal

entity, including being a shareholder, director, or officer of the corporation, being a member of the limited liability company, being a partner in the partnership, or being a beneficiary of the trust. In no event shall the natural person(s) designated to occupy the Unit be changed more frequently than once every twenty-four (24) months.

(d) General. Any Owner who desires to lease such Owner's Unit, including the residence thereon, may do so only if the Owner has applied for and received from the Board of Directors either a "Leasing Permit" or a "Hardship Leasing Permit." Such a permit, upon its issuance, will allow an Owner to lease his or her Unit provided that such leasing is in strict accordance with the terms of the permit and this Section. The Board of Directors shall have the authority to establish conditions as to the duration and use of such permits. All permits shall be valid only as to a specific Unit Owner and Unit and shall not be transferable between either Units or Unit Owners.

(e) Leasing Permits. In order to be qualified to obtain a Leasing Permit, an Owner must have regularly occupied the Unit for which the Leasing Permit is requested as his or her primary residence for at least twenty-four (24) consecutive months (hereafter, a "Qualified Owner"). The purpose of this provision is to discourage the purchase of Units by Owners for the sole purpose of renting the Unit as an investment property.

A Qualified Owner's request for a Leasing Permit shall be approved if current, outstanding Leasing Permits have not been issued for more than ten percent (10%) of the Units within the Neighborhood. A Leasing Permit shall be automatically revoked upon the happening of any of the following events: (1) the sale, foreclosure, or transfer of the Unit (excluding sales or transfers to an Owner's spouse, a person cohabitating with the Owner, or a corporation, partnership, company, or legal entity in which the Owner is a principal); (2) the failure of a Unit Owner to lease his or her Unit within ninety (90) days of the Leasing Permit having been issued; (3) the failure of a Unit Owner to have his or her Unit leased for any consecutive ninety (90) day period thereafter; or (4) the occurrence of the date referenced in a written notification by the Owner to the Association that the Owner will, as of said date, no longer need the Leasing Permit.

If current Leasing Permits have been issued for ten percent (10%) of the Units in the community, no additional Leasing Permits shall be issued (except for Hardship Leasing Permits, as set forth below) until the number of outstanding current Leasing Permits falls below ten percent (10%) of the Units in the community. Owners who have been denied a Leasing Permit shall automatically be placed on a waiting list for a Leasing Permit and shall be issued a Leasing Permit if they so desire when the number of current outstanding Leasing Permits issued falls to less than ten percent (10%) of the Units in the community. The issuance of a Hardship Leasing Permit to an Owner shall not cause the Owner to be removed from the waiting list for a Leasing Permit.

(f) Hardship Leasing Permits. If the failure to lease will result in a hardship, an Owner may seek to lease on a hardship basis by applying to the Board of Directors for a Hardship Leasing Permit. The Board of Directors shall have the authority to issue or deny requests for Hardship Leasing Permits in its sole discretion. In making such a determination, the Board may take any factor into account, including: (1) the nature, degree, and likely duration of the hardship, (2) the number of Hardship

Leasing Permits which have been issued to other Owners, (3) the Owner's ability to cure the hardship, and (4) whether previous Hardship Leasing Permits have been issued to the Owner.

(g) Leasing Provisions. Leasing of Units shall be governed by the following provisions:

(1) Notice. At least seven (7) days prior to entering into the lease of a Unit, the Owner shall provide the Board of Directors with a copy of the proposed lease and such other information as the Board may reasonably require. The Board may approve or disapprove the form of said lease. In the event a lease is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease in compliance with the Declaration and any rules and regulations adopted pursuant thereto. Within ten (10) days from the execution of the lease by both parties, the Owner shall provide the Board with a copy of the executed lease and the names and phone number of the lessees.

(2) General. Units may be leased only in their entirety; no fraction or portion may be rented. There shall be no subleasing of Units or assignment of leases unless approved in writing by the Board. All leases shall be for a period of at least twelve (12) months, except with written Board approval. The Owner must provide the tenant copies of the Declaration, Bylaws, and Association rules and regulations, and the written lease shall provide that the Owner has done so.

(3) Liability for Assessments and Compliance With Declaration, Bylaws, and Rules and Regulations. Any lease of a Unit shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner covenants and agrees that any lease of a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into a lease by existence of this covenant on the Unit. Any lessee, by occupancy of a Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(A) Liability for Assessments. Lessee agrees to be personally obligated for the payment of all assessments and all other charges against the Owner which become due during the term of the lease and any other period of occupancy by the lessee or which become due as a consequence of lessee's activities, including, but not limited to, activities which violate provisions of the Declaration, the Bylaws, or the rules and regulations adopted pursuant thereto. The above provision shall not be construed to release the Unit Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

When a Unit Owner who is leasing his or her Unit fails to pay any assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Unit Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon demand by the Board of Directors, lessee shall pay to the Association all unpaid annual and special assessments and other charges, as lawfully determined and made payable during the remaining term of the lease and any other period of occupancy by lessee following such demand. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's demand to pay

assessments or other charges to the Association, lessee shall be obligated to pay to the Association all late charges, fines, interest, and costs of collection, including, but not limited to, reasonable attorney's fees actually incurred, to the same extent lessee would be required to make such payments to the Association if lessee were the Owner of the premises during the term of the agreement and any other period of occupancy by lessee, and including all amounts paid by lessee to lessor following the date of such demand from the Board.

(B) Compliance with Declaration, Bylaws, and Rules and Regulations.

Lessee shall abide by and comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other occupants and guests in order to insure compliance with the foregoing. Lessee acknowledges that the violation by lessee or any occupant living with lessee of any provision of the Declaration, Bylaws, or rules and regulations adopted thereunder shall constitute a default under this lease. Owner shall cause all occupants of his or her Unit to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and is responsible for all violations and losses caused by such occupants, notwithstanding the fact that such occupants of the Unit are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto. If the lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule and regulation for which a fine is imposed, such fine may be assessed against the lessee and/or the Owner; provided, however, if a fine is not paid by the lessee within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Board of the lessee's failure to do so. Unpaid fines shall constitute a lien against the Unit. Any lessee charged with a violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto is entitled to the same procedure to which an Owner is entitled prior to the imposition of a fine or other sanction.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by lessee, any occupant, or any person living with lessee is deemed to be a violation of the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee on behalf and for the benefit of the Owner, in accordance with the terms hereof, or to require the Owner to do so. In the event the Association proceeds to evict the tenant, any costs, including attorney's fees and court costs, associated with the eviction shall be specially assessed against the Unit and the Owner thereof, such being deemed hereby as an expense which benefits the leased Unit and the Owner thereof; and the Owner shall not again lease the Owner's Unit to any person without the expressed written approval of the Board.

(h) Leasing Administration Assessment. For any Unit that is leased after the effective date of this Amendment, the Association shall have the authority to assess the Owner of the Unit a Leasing Administration Assessment. The amount of the Leasing Administration Assessment upon the effective date of this Amendment shall be \$150.00. The Board may increase the amount of the Leasing Administration Assessment from time to time in the future, provided the amount shall not exceed twenty-five percent (25%) of the amount of the annual assessment applicable to all Units in

effect for the current fiscal year. The Leasing Administration Assessment shall be due and payable on the date on which the lease is executed, and on each subsequent anniversary date thereof, for as long as leasing activity continues. Such Leasing Administration Assessment shall be deemed a specific assessment which may be assessed pursuant to Article 4, Section 4.6 of the Declaration. Failure to pay the Leasing Administration Assessment within thirty (30) days of the leasing of the Unit shall result in a violation under this Section and the amount owed would constitute a lien against the Owner's Unit. Pursuant to this Section, any Owner who is leasing his or her Unit shall provide current lease agreements to the Association's Board of Directors or management agent for record-keeping purposes.

(i) Applicability of this Section (Grandfathering of Owners Who Are Currently Leasing). Except as provided herein, the leasing restrictions within this Section 7.3 shall not apply to any Owner who is an Owner of a Unit on the date this Amendment is recorded in the Gwinnett County, Georgia land records if the Owner is leasing the Unit on such date. The Owner may continue to lease the Unit in accordance with the terms of the Declaration as it existed prior to the date this Amendment is recorded in the Gwinnett County, Georgia land records; provided, however, upon the conveyance of ownership of the Unit, all leasing restrictions of this Section shall apply. The expressed purpose of this grandfathering provision is to allow Owners who own, and who are leasing, Units as of the date this Amendment is recorded in the Gwinnett County, Georgia land records to continue to lease their Units, but to thereafter restrict leasing upon conveyance of ownership of the Units (e.g., resales).

Any assignment, extension, renewal, or modification of any lease agreement entered into prior to the date this Amendment is recorded in the Gwinnett County, Georgia land records, including, but not limited to, changes in the terms or duration of occupancy, shall be considered a termination of the old lease and commencement of a new lease which shall comply with subsections (g) and (h) of this Section.

Notwithstanding the above, in order for any such Owner to obtain the grandfathering of the Owner's Unit, the Owner must comply with the following two conditions:

- (1) within ninety (90) days of the date this Amendment is recorded in the Gwinnett County, Georgia land records, the Owner must provide written notice to the Board of Directors that the Owner is leasing the Owner's Unit and must provide the Board a written copy of the lease (failure to provide such notice and copy of the lease to the Board within such ninety (90) day period shall disqualify the Owner from this grandfathering provision); and
- (2) the Owner has no period of ninety (90) consecutive days in which the Owner's Unit is not leased (failure to have the Owner's Unit leased for any consecutive ninety (90) day period shall result in the termination of this grandfathering provision as to such Owner).

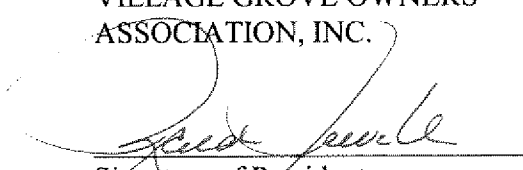
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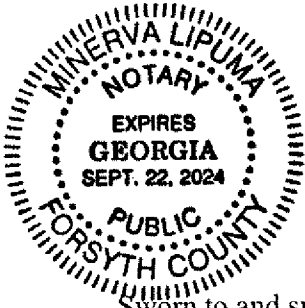
Any action to challenge the validity of this amendment must be brought within one (1) year of the recording of same in the Gwinnett County, Georgia land records. No action to challenge this Amendment may be brought after such time. This Amendment shall become effective upon recordation in the Gwinnett County, Georgia real property records.

IN WITNESS WHEREOF, the undersigned officers of the Association unequivocally state that the consent of the required number of Owners was obtained and that any notices required by the Declaration, the Bylaws, the Articles of Incorporation, and Georgia law, including Georgia Property Owners Association Act, O.C.G.A. § 44-3-220, et. seq., were properly given.

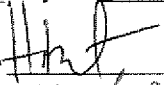
Dated this 17 day of December, 2020.

VILLAGE GROVE OWNERS
ASSOCIATION, INC.


Signature of President
Print Name: RAND JEWELL

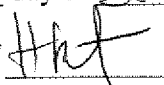


Sworn to and subscribed before me
this 17th day of December, 2020.

Witness: 
Minerva Lipuma
Notary Public


Signature of Secretary
Print Name: Michelle Henderson

Sworn to and subscribed before me
this 17th day of December 2020.

Witness: 
Minerva Lipuma
Notary Public

