

FILED & RECORDED
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA.

BK 40841 PG 0253

04 DEC -7 PM 4:17

TOM LAWLER, CLERK

CROSS REFERENCE: GWINNETT COUNTY, GEORGIA:
Deed Book: 37345; Page: 43;

After recording, please return to:

Heather Blackwelder

Dorough & Dorough, LLC

Attorneys at Law

Two Decatur TownCenter, Suite 520

125 Clairemont Avenue

Decatur, Georgia 30030

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

THIS THIRD AMENDMENT (hereinafter referred to as "Third Amendment") is made this
24 day of November, 2004 by SUWANEE JUNCTION, LLC, a
Delaware limited liability company (hereinafter referred to as "Declarant").

WITNESSETH

WHEREAS, Declarant executed that certain Master Declaration of Protective Covenants, Conditions, Restrictions and Easements for Village Grove, which was recorded on March 9, 2004 in Deed Book 37345, Pages 43, *et seq.*, Gwinnett County, Georgia records, as amended by that certain First Amendment to Master Declaration of Protective Covenants, Conditions, Restrictions and Easements for Village Grove which was recorded on April 20, 2004 in Deed Book 37903, Pages 137, *et seq.*, aforesaid records and that certain Second Amendment to Master Declaration of Protective Covenants, Conditions, Restrictions and Easements for Village Grove which was recorded on July 14, 2004 in Deed Book 39077, Pages 97, *et seq.*, aforesaid records and supplemented by that certain Supplementary Declaration of Protective Covenants, Conditions, Restrictions and Easements for Village Grove recorded May 4, 2004 in Deed Book 38094, Pages

61, *et seq.*, aforesaid records (hereinafter as supplemented and/or amended from time to time, the "Declaration"); and

WHEREAS, the Owners and the Declarant desire to amend the Declaration as set forth herein and intend for this Third Amendment to be prospective only; and

WHEREAS, pursuant to 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 Declarant; and

WHEREAS, attached hereto as Exhibit "A" and incorporated herein by reference is the sworn statement of the President of the Association, which sworn statement states unequivocally that the affirmative vote or written consent of the Owners of at least two-thirds of the Units was lawfully obtained;

NOW THEREFORE, the Declarant and the Association hereby adopt this Third Amendment, hereby declaring that all the property now or hereafter subject to the Declaration shall be held, conveyed, encumbered, used, occupied and improved subject to the Declaration, amended as follows:

1.

The Declaration is hereby amended by deleting Section 8.2 of the Declaration in its entirety and inserting in lieu thereof the following new Section 8.2:

8.2 Maintenance.

(a) Association Maintenance in the Coventry at Village Grove. In addition to the maintenance responsibilities of the Association described in Section 5.1 hereof, the Association shall also maintain (whether or not constituting Common Property): (a) the private driveways and walkways serving Townhome Units located in Coventry at Village Grove, if any; (b) the private streets and alleys in the Coventry at Village Grove, if any; and (c) the exterior portions of all Townhome Units located in the Coventry at Village Grove as provided in Section 8.2 (e) hereof.

(b) Coventry at Village Grove Owner Maintenance. In addition to the maintenance responsibilities of Owners described in Section 5.2 hereof, an Owner of a Townhome Unit within the Coventry at Village Grove shall also maintain any pipe(s), wire(s) and conduit(s) which serve only the Townhome Unit, whether said pipe(s), wire(s) or conduit(s) are located within or outside of a Townhome Unit's boundaries. Accordingly, Owners of a Townhome Unit within the Coventry at Village Grove shall maintain the water line which exclusively serves a particular Townhome Unit. Notwithstanding any provision to the contrary in this Declaration, the Owner of a Townhome Unit within the Coventry at Village Grove shall not be responsible for the maintenance of the exterior portion of such

Owner's Townhome Unit, including without limitation, exterior painting; provided however, the Owner shall be responsible for maintaining and keeping in good repair the following: (i) landscaping within the patios, planters and courtyards, if any, of such Owner's Townhome Units; (ii) HVAC or similar equipment located outside the Owner's Townhome Unit; (iii) all doors, including screen and storm doors, hinges, frames and door frames and hardware which are part of the entry system of such Owner's Townhome Unit; (iv) hose bibs contained in exterior walls of such Owner's Townhome Unit; (v) lighting fixtures pertaining to such Owner's Townhome Unit and being located outside an entryway or in a garage; (vi) window screens and window frames of such Owner's Townhome Unit; (vii) foundations and footings of such Owner's Townhome Unit, including waterproofing; and (viii) pipes which serve only such Owner's Townhome Unit whether located within or outside of the Townhome Unit's boundaries

(c) Yard Maintenance. The Association shall maintain and keep in good repair the landscaping improvements located on the exterior portions of the Coventry at Village Grove. The Board of Directors in its sole discretion may leave portions of the Coventry at Village Grove as undisturbed natural areas and may change the landscaping in the Coventry at Village Grove at any time and from time to time or may, with the consent of the Declarant, change the level of yard maintenance performed or for example maintain front yards only. Any common irrigation system installed by the Declarant or the Association shall be Common Property, operated, maintained, repaired and replaced by the Association. Reasonable steps shall be taken to protect the common irrigation system. Any damage caused to the common irrigation system shall be repaired by the party responsible for such damage. The deed of conveyance of any Townhome Unit shall not include any right, title or interest in such irrigation system, if any. Maintenance of lawns by the Association shall be limited to mowing, edging, fertilizing and weed control and shall not include any responsibility for replacing dead or dying grass, bushes, shrubs, trees or other vegetation. All yard maintenance shall be performed at a level to be determined in the sole discretion of the Board; provided, however, that all yards maintained by the Association must receive approximately equal attention and must be maintained according to the same standard. The Board of Directors may promulgate rules setting forth the extent of landscaping maintenance to be performed by the Association and the rights of Owners with respect to adding or modifying landscaping improvements, including, for example allowing seasonal flowering plants in certain areas of the Coventry at Village Grove at the expense of the Owner. In the event that the Owner of a Townhome Unit within the Coventry at Village Grove obtains approval to construct a fence in accordance with Section 7.16 of this Declaration, the Association shall no longer be obligated to maintain the landscaping within enclosed portions of the Townhome Unit and such landscaping shall be the sole responsibility of the Owner.

(d) Party Walls. Each wall or fence built as a part of the original construction of the Townhome Units which shall serve and separate any two (2) adjoining Townhome Units shall constitute a party wall or fence and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto. The cost of reasonable repair and maintenance of a party wall or fence shall be shared by the Owners who make use of the wall or fence in equal proportions. If a party wall or fence is destroyed or damaged by fire or other casualty, then any Owner who has benefited by the wall or fence may restore it, and the other Owner who is benefited by the wall or fence shall contribute one-half of the cost of restoration, without prejudice, however, to the right of any Owner to call for a larger contribution from any other Owner under any rule of law regarding liability for negligent or willful acts or omissions.

(e) Exterior Maintenance. As provided in Section 8.2(a) above, the Association shall maintain and keep in good repair the exterior portions of all Townhome Units in the Coventry at Village Grove. Maintenance by the Association of exterior portions of such Townhome Units shall include the following: (a) all roofs, downspouts and gutters; (b) all exterior building surfaces and exterior glass, including without limitation repainting such surfaces as necessary, with the exception of hardware; provided, however, the Association shall not be responsible for waterproofing foundations either above or below grade; and (c) all stoops, decks, rails and walks. The Association shall not be responsible for maintaining and keeping in good repair the following: (i) landscaping within the patios, planters and courtyards, if any, of the Townhome Units; (ii) HVAC or similar equipment located outside the Townhome Units; (iii) all doors, including screen and storm doors, hinges, frames and door frames and hardware which are part of the entry system; (iv) hose bibs contained in exterior walls of a Townhome Unit; (v) lighting fixtures pertaining to a particular Townhome Unit and being located outside an entryway or in a garage; (vi) window screens and window frames; (vii) foundations and footings, including waterproofing; and (viii) pipes which serve only one (1) Townhome Unit whether located within or outside of the Townhome Unit's boundaries. The Board of Directors may promulgate rules setting forth the extent of maintenance to be performed by the Association and may assume responsibility for providing additional maintenance as long as Townhome Units have equal rights to maintenance. The Board of Directors may authorize the officers of the Association to enter into contracts with any Person or Persons to perform maintenance hereunder on behalf of the Association.

2.

The Declaration is hereby amended by deleting Section 9.2(a) of the Declaration in its entirety and inserting in lieu thereof the following new Section 9.2(a):

(a) Association Maintenance in the Enclave at Village Grove. In addition to the maintenance responsibilities of the Association described in Section 5.1 hereof, the Association shall also maintain (whether or not constituting Common Property, located on a Unit, or public right-of-way): (a) the private streets and alleys in the Enclave at Village Grove, if any; and (b) retaining wall(s) and fencing, if any, serving the Enclave at Village Grove which is located along all or a portion of the boundary of a Unit and adjacent to a public right-of-way, whether or not said retaining wall(s) or fencing are located on a Unit, private property or public right-of-way.

3.

The Declaration is hereby amended by deleting Section 14.6 of the Declaration in its entirety and inserting in lieu thereof the following new Section 14.6:

14.6 Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Units subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, without limitation, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Units subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or private insurance company, including, without limitation, the U.S. Department of Housing and Urban Development and the U.S. Department of Veterans Affairs, to insure or guarantee Mortgage loans on the Units subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Unit unless the Owner of such Unit consents thereto in writing. Further, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owners hereunder nor shall it adversely affect title to any Unit without the consent of the affected Owner. The Board of Directors, with the written consent of the Declarant, and without a vote of the members may amend this Declaration for the sole purpose of electing to be governed by the provisions of the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* Any provision in the Declaration which affects or applies to a particular Neighborhood or particular Neighborhoods may be amended upon the affirmative vote or written consent of the Owners of at least two-thirds (2/3) of the Units located in said Neighborhood or Neighborhoods and the consent of Declarant. In addition to the above, this 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 Declarant. Amendments to this Declaration shall become effective upon

recordation unless a later effective date is specified therein. The consent of the Declarant to any amendment shall be evidenced by the execution of said amendment by Declarant. The consent of the requisite number of Owners to any amendment shall be evidenced by the execution of the amendment by said Owners, or, in the alternative, the sworn statement of the President or any Vice President or the Secretary of the Association attached to or incorporated in the amendment, which sworn statement states unequivocally that the consent of the required number of Owners was obtained and that any notices required by this Declaration, the Bylaws, the Articles of Incorporation and Georgia law were given.

4.

Unless otherwise defined herein, the words used in this Third Amendment shall have the same meaning as set forth in the Declaration.

5.

This Third Amendment shall be effective only upon being recorded in the records of the Clerk of Superior Court of Gwinnett County, Georgia.

6.

Except as herein modified, the Declaration shall remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

Sworn Statement Of President Of
Village Grove Owners Association, Inc.

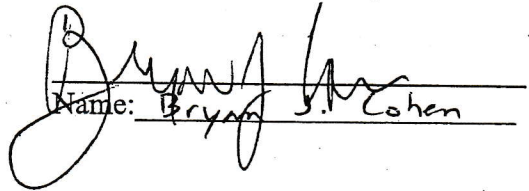
STATE OF GEORGIA

COUNTY OF _____

Personally appeared before me, the undersigned deponent who, being duly sworn, deposed and said on oath that:

1. Deponent is the President of Village Grove Owners Association, Inc.
2. Deponent is duly qualified and authorized to make this Affidavit and knows the facts contained herein of his/her own personal knowledge.
3. The foregoing Third Amendment to Master Declaration of Protective Covenants, Conditions, Restrictions and Easements for Village Grove was approved by the affirmative vote or written consent of the Owners of at least two-thirds of the Units as provided in the Declaration.
4. Deponent makes this Affidavit pursuant to Official Code of Georgia Annotated Section 44-2-20.

This the 24 day of November, 2004.


 Name: Bryan S. Cohen

Sworn to and subscribed before
 me on this 24th day of November, 2004:



 Notary Public

