

Supplementary Covenants SEE BOOK 1613
FOR RECORD OF THIS 2 DAY OF July 1997
PAGE 436 PHYLIS N. WALTER REGISTER OF DEEDS
BY J. Penny DEPUTY

Supplementary Covenants SEE BOOK 1473
FOR RECORD OF THIS 23 DAY OF Dec 1990
PAGE 535 PHYLIS N. WALTER REGISTER OF DEEDS
BY J. Penny DEPUTY

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BOOK 1473 PAGE 790

(2)

Prepared by and return to: Allen R. Tew, P.A.
PO Box 145, Clayton, NC 27520

STATE OF NORTH CAROLINA
COUNTY OF JOHNSTON

FIRST AMENDMENT TO DECLARATION OF
RESTRICTIVE COVENANTS FOR GARRISON SUBDIVISION
PHASE ONE

THIS AMENDMENT, made on the date hereinafter set forth by F. STEVEN SHIPWASH and wife, MARCIA H. SHIPWASH, COMFORT HOMES, INC. and RAFT, Inc., North Carolina Corporations, and Robert L. Fuller and wife, Deborah L. Fuller, by Julian R. Stewart, their attorney-in-fact, hereinafter set forth as "Declarant", and certified in the manner and for the purpose hereinafter set forth by GARRISON HOMEOWNERS ASSOCIATION, INC., a North Carolina nonprofit corporation, PO Box 845, 305 E. Main Street, Clayton, NC 27520, hereinafter referred to as "Association".

WITNESSETH:

WHEREAS, F. Steven Shipwash and wife, Marcia H. Shipwash as the Declarants originally subjected certain property located in Johnston County to that certain Declaration of Restrictive Covenants for Garrison Subdivision Phase One ("Declaration") recorded in Book 1448, page 240, Johnston County Registry, which Declaration is incorporated herein by reference and reaffirmed except as hereinafter amended; and

WHEREAS, lots have been sold to the above corporations and individuals who join in signing these amendments as "Declarant".

WHEREAS, subsequent to the recordation of the Declaration, Declarant has been informed that the Declaration must meet certain requirements to comply with the U.S. Department of Housing and Urban Development. Certain amendments must be made to the Declaration in order for the Declaration to be in compliance with the guidelines and requirement in order for Garrison to obtain approval as a Planned Unit Development; and

WHEREAS, it is in the mutual best interests of Declarant and the Lot Owners at Garrison to obtain such approval; and

WHEREAS, this amendment has been approval by one hundred percent (100%) of the Owners of the lots in existence at Garrison as of the date hereof as certified by the Association hereinafter;

Supplementary Covenants SEE BOOK 1631
FOR RECORD OF THIS 11 DAY OF Dec 1997
PAGE 535 PHYLIS N. WALTER REGISTER OF DEEDS
BY J. Penny DEPUTY

NOW, THEREFORE, Declarant declares, and all other Lot Owners agree, that all of the properties described in the Declaration shall be held, sold, and conveyed subjected to these amendments to the Declaration which shall be as follows:

WHEREAS, Declarants are the owners of certain property in Town of Clayton, County of Johnston, State of North Carolina, which is more particularly described as follows:

BEING all of the lots in Garrison Subdivision, Phase One, according to a plat recorded in Plat Book 45, pages 223 and 225, Johnston County Registry.

NOW, THEREFORE, Declarants hereby declare that all of the properties described above shall be held, sold, and conveyed to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1
DEFINITIONS

Section 1. "Association" shall mean and refer to Garrison Homeowners Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Areas to be owned by the Association at the time of the conveyance of the first lot is described as follows:

BEING all of a 1.96 +/- acre tract of land as depicted as a recreation and open space area in Plat Book 45, page 225, Johnston County Registry. Said COMMON AREA cannot be conveyed or mortgaged without the consent of at least two-thirds (2/3) of the lot owners except Developer.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to F. Steven Shipwash and wife, Marcia H. Shipwash, Comfort Homes, Inc. and RAFT, Inc., their successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II
PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and to other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all of any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members.

No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a lot which is subject to assessment and the original Developers F. Steven Shipwash and Marcia H. Shipwash, shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A member(s) shall be all Owners, with the exception of F. Steven Shipwash and wife, Marcia H. Shipwash, the original Developers, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be F. Steven Shipwash and wife, Marcia H. Shipwash, and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) on October 15, 2000.

ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first by F. Steven Shipwash and wife, Marcia H. Shipwash, the maximum annual assessment shall be One Hundred Twenty dollars (\$120.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner by F. Steven Shipwash and wife, Marcia H. Shipwash, or until the recordation of these Amendments, whichever shall last occur. The maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice any any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots other than those owned by the original Developers F. Steven Shipwash and wife, Marcia H. Shipwash, on the first day of the month following the conveyance of the Common Area or recordation of this Amendment, whichever last occurs. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 6 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V
ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, 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 the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated 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.

ARTICLE VI
GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Staged Development. Additional land within the area described in Deed Book 1404, page 221, and Deed Book 1404, Page 223, respectively, of the land records of Johnston County, may be annexed by the Declarant without the consent of members within five years of the date of this instrument provided that the FHA and the VA determine that the annexation is in accord with the general plan heretofore approved by them.

Section 5. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members except as provided hereinabove in Section 4, Staged Development.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

ARTICLE VII

NOW, THEREFORE, Declarants declare, and that all of the property as described in the Declaration recorded in Book 1448, page 240, shall be amended as follows:

1. Article III. The last paragraph shall be omitted and replaced with the following:

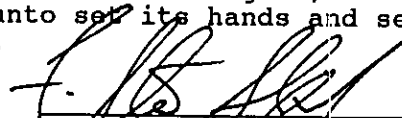
"Prior to the construction of any improvements on any lot in this subdivision, the Owners must obtain the prior approval of the Board of Directors or the Architectural Committee."

2. Article IX. The last sentence which begins with "However, there shall be permitted", shall be deleted in full, and replaced with the following:

"However, there shall be permitted and allowed upon any lot covered by these covenants, a storage building as long as the same is at least eight (8) x ten (10) feet, but not larger than 12' x 14', and is not unsightly in appearance and is so as to conform with the other structures on said lot and in the surrounding area and is not located closer to the front line of the lot than to a line parallel with the back or rear line of the dwelling house."

Except as herein amended in this document, the Declaration recorded in Book 1448, page 240, are hereby reaffirmed and ratified.

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, has hereunto set its hands and seal, this 13th day of October, 1995.

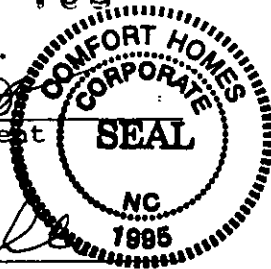
 (SEAL)
F. STEVEN SHIPWASH

 (SEAL)
MARCIA H. SHIPWASH

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COMFORT HOMES, INC.

BY: Julie R. Stewart
President

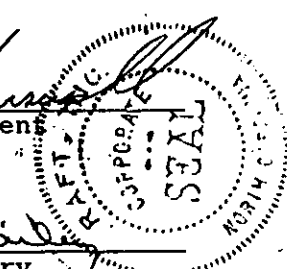


ATTEST:

Donald L. Williams
Secretary
(Corporate Seal)

RAFT, INC.

BY: Robert Marshall
President



ATTEST:

Barbara Bailey
Secretary
(Corporate Seal)

Robert L. Fuller by atty-in-fact
Julie R. Stewart his (SEAL)

ROBERT L. FULLER, by
Julian R. Stewart, his atty-
in-fact

Deborah L. Fuller, by atty-in-fact
Julie R. Stewart her atty-in-fact (SEAL)

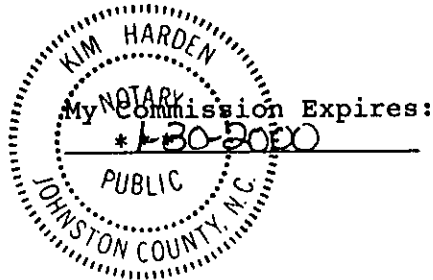
DEBORAH L. FULLER, by
Julian R. Stewart, her atty-
in-fact

STATE OF NORTH CAROLINA
COUNTY OF JOHNSTON

I, Kim Harden, a Notary Public of the County and State aforesaid, do hereby certify that F. STEVEN SHIPWASH and wife, MARCIA H. SHIPWASH, personally appeared before me this day and acknowledged the execution of the foregoing instrument for the purposes therein expressed.

BH Witness my hand and official stamp or seal this the _____ day of October, 1995.

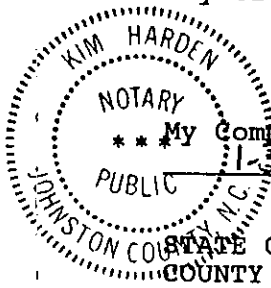
Kim Harden
Notary Public



STATE OF NORTH CAROLINA
COUNTY OF JOHNSTON

I, Kim Harden, a Notary Public of the County and State aforesaid, certify that Donald L. White, personally appeared before me this day and acknowledged that he is Secretary of COMFORT HOMES, INC., a North Carolina 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, sealed with its corporate seal and attested by him as its Secretary.

Witness my hand and official stamp or seal, this 3rd day of October, 1995.

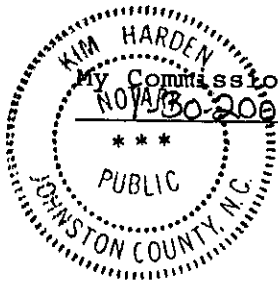


Kim Harden
Notary Public

STATE OF NORTH CAROLINA
COUNTY OF JOHNSTON

I, Kim Harden, a Notary Public of the County and State aforesaid, certify that Barbara Bailey, personally appeared before me this day and acknowledged that she is Secretary of RAFT, INC., a North Carolina 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, sealed with its corporate seal and attested by her as its Secretary.

Witness my hand and official stamp or seal, this 13th day of October, 1995.



Kim Harden
Notary Public

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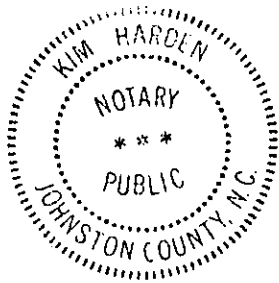
STATE OF NORTH CAROLINA
COUNTY OF JOHNSTON

I, Kim Harden, a Notary Public, do hereby certify that Julian R. Stewart, Attorney-in-Fact for Robert L. Fuller and wife, Deborah L. Fuller, personally appeared before me this day, and being by me duly sworn, says that he executed the foregoing and annexed instrument for and in behalf of them, and that the authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged, and recorded in the Office of Johnston County Registry, on the 13th day of October, 1995, in Book 1473, Page 788, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney; that the said Julian R. Stewart acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the said Robert L. Fuller and wife, Deborah L. Fuller.

WITNESS my hand and official seal, this 13th day of October, 1995.

Kim Harden
Notary Public

My commission expires:
1-30-2000



State of North Carolina, Johnston County

The foregoing certificate(s) of

Kim Harden

Notary(Notaries) Public is(are) certified to be correct.

This instrument was presented for registration and recorded

in Book 1473 Page 790

This Oct 13 19 95 at 9:11 AM

Phyllis N. Wait

Register of Deeds

Maryn Baez

Deputy Register of Deeds