

STATE OF FLORIDA
DEPARTMENT OF COMMERCE
OFFICE OF THE GENERAL COUNSEL

JESSE CRANE

Petitioner,

vs.

FILE No. :

STATE OF FLORIDA
DEPARTMENT OF COMMERCE,
OFFICE OF THE GENERAL COUNSEL

Respondent,

PETITION FOR FORMAL ADMINISTRATIVE PROCEEDINGS

Pursuant to Florida Statute §120.569 and Rules 28-106.104(2), 28-106.201(2) and 28-106.301, Florida Administrative Code, JESSE CRANE, by and through his undersigned counsel, files this Petition for Formal Administrative Proceedings ("Petition") to challenge the decision of Respondent, State of Florida, Department of Commerce, Office of the General Counsel (the "Department") approving compliance of the "Revived Declaration of Covenants, Conditions and Restrictions for Three Rivers Estates" (Determination number: 26002-A) deed restrictions with Chapter 720, Florida Statutes.

In support of his Petition, Petitioner states as follows:

1. RULE 28-106.201(2)(A). THE NAME AND ADDRESS OF EACH DEPARTMENT AFFECTED AND EACH DEPARTMENT'S FILE OR IDENTIFICATION NUMBER, IF KNOWN.

The Department affected by this Petition is the State of Florida, Department of Commerce, Office of General Counsel, whose address is 107 East Madison Street, MSC 110, Tallahassee, Florida 32399-4128. The Department's determination number is 26002-A.

2. RULE 28-106.201(2)(B). THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE PETITIONER'S REPRESENTATIVE, IF ANY, WHICH SHALL BE THE ADDRESS FOR SERVICE PURPOSES DURING THE COURSE OF THE PROCEEDING; AND AN EXPLANATION OF HOW THE PETITIONER'S SUBSTANTIAL INTERESTS WILL BE AFFECTED BY THE DEPARTMENT DETERMINATION.

Petitioner is represented by legal counsel and all notices and correspondence should be sent to Petitioner's legal counsel, JEREMY V. ANDERSON, Anderson, Givens & Fredericks, P.A., 1689 Mahan Center Blvd, Suite B Tallahassee, FL 32308, telephone (850) 692-8900, fax (850) 224-2440, email janderson@andersongivens.com and JEREMY V. ANDERSON is the person for the purpose of service and other matters during the course of this proceeding.

Petitioner has a substantial interest in this matter, as the sole fee simple title holder of Lots 4 and 5, Blk 6, Three Rivers Estates Unit No. 23 and Lots 108, 150, 151, 152 & 153 Three Rivers Estates Unit No. 17, and has been affected by the Department's decision to approve the Revived Declaration of Covenants, Conditions and Restrictions for Three Rivers Estates (the "Community"). The approved revitalization as recorded in the public records of Columbia County, Florida is attached hereto and made a part hereof as **Exhibit "A,"** and purports to revive a 1962 set of covenants and restrictions recorded at Official Records Book 129, Page 90 of Columbia County, Florida, that were void ab initio and of no legal effect whatsoever and a 1990 amended set of restrictions recorded at Official Records Book 0733, Page 0144 of Columbia County, Florida, predicated upon the 1962 restrictions which were void ab initio and which were themselves void ab initio for failure to comply with witness requirements of two (2) subscribing witnesses. The revitalization process cannot be used to revive restrictions that were never validly imposed in the first place. In the instant case, anything being revitalized is, by its very nature, covenants that are more restrictive on the parcel owners than the original restrictions, as there were no restrictions that were properly imposed initially on any lots in any of the Three Rivers Estates Units.

Petitioner purchased various properties within Three Rivers Estates, none of which were ever properly encumbered by the restrictions, and there was no applicable mandatory association. Petitioner does not wish for his properties to be subject to restrictions nor to be forced to belong to a mandatory association without Petitioner's written approval and consent.

3. RULE 28-106.101(1)(C). A STATEMENT OF WHEN AND HOW THE PETITIONER RECEIVED NOTICE OF THE DEPARTMENT DECISION.

On or about February 10, 2026, upon attending a meeting of the Three Rivers Estates Property Owners, Inc. (herein "Association"), Petitioner received a copy of the Department's letter dated January 28, 2026, wherein the Department approved the revitalization of the Association's Revived Declaration. A copy of the Department's January 28, 2026, letter is attached hereto and made a part hereof as **Exhibit "B"**. This petition is timely filed. A copy of the submission to the Department is attached hereto and made part hereof as **Exhibit "E"**. A copy of the mailing to the owners voting on the revitalization is attached hereto and made part hereof as **Exhibit "F"**.

4. RULE 28-106.201(2)(D). A STATEMENT OF ALL DISPUTED ISSUES OF MATERIAL FACT. IF THERE ARE NONE, THE PETITION MUST SO INDICATE.

Material facts that are in dispute include the following:

(a) Whether the Department correctly approved the Revived Declaration and other governing documents when the submission to the Department was not complete based upon the submission requirements set forth in Florida Statute §720.406(1)(b).

(i) The 1987 Bylaws were not submitted to the Department (Petitioner does not have a copy of the 1987 Bylaws in his possession, but knows they existed at one time based upon communications and the recitation at the end of the 1994 Bylaws themselves). The Affidavit Verifying Previous Governing Documents (herein "Affidavit of Governing Documents") signed by Terri Hester, a member of the Organizing Committee and President of the Association, and

included in the submission to the Department specifically states that “[a] list identifying the subdivision’s previous governing documents for Columbia County is attached. Copies of these documents are under cover sheet marked D-1.” However, the 1994 Bylaws, as part of Exhibit D-1 of the submission to the Department includes a statement that “THESE BY-LAWS WERE APPROVED BY A SPECIAL MEETING OF THE BOARD HELD ON JANUARY 10, 1987, and amended by a vote of the membership at the annual meeting held on OCTOBER 8, 1994.” The Affidavit of Governing Documents does not claim that the 1987 Bylaws were lost, unavailable, or that there is another justifiable basis for not including same in Exhibit D-1 of the submission to the Department;

(ii) There was a 2008 amendment to the Articles of Incorporation that was not submitted to the Department as part of the submission. In 2008, the Association filed the a document with the Florida Division of Corporations (herein “Corporations”) in the form of an amendment to the Articles of Incorporation. The amendment was and is readily accessible either online at the Corporations’ website (www.sunbiz.org) or by a records request. The Affidavit of Governing Documents does not claim that this 2008 amendment to the Articles of Incorporation was lost, unavailable, or that there is another justifiable basis for not including the same in Exhibit D-1 of the submission to the Department;

(iii) There was a Notice of Preservation (herein “Notice) recorded in the Official Records of Columbia County in 2020 that was not submitted to the Department as part of the submission. The Notice purports to “preserve” or otherwise continue restrictions on lots within Three Rivers Estates, including those asserted to be “affected” by the Department’s approval. This Notice has neither been rescinded nor does the Affidavit of Governing Documents claim that this

Notice was lost, unavailable, or that there is another justifiable basis for not including the same in Exhibit D-1 of the submission to the Department; and

(iv) There is a 1986 Warranty Deed to the Association for the common area that is identified as part of the Subdivision, and that is to be governed by revitalized restrictions. This deed imposes a legal obligation that runs with the land, obligating the Association to maintain the common area in a “good condition” for the “use . . . only as a recreational and community area for the benefit of all property owners in the developments known as THREE RIVERS ESTATES . . .” The Affidavit of Governing Documents does not claim that this Warranty Deed was lost, unavailable, or that there is another justifiable basis for not including the same in Exhibit D-1 of the submission to the Department

Copies of all of the above-referenced documents, which are in the possession of the Petitioner, are attached hereto as **Composite Exhibit “C”**.

(b) Whether the Department correctly approved the Revived Declaration and other governing documents based on their content and the Department’s erroneous belief that Three Rivers Estates was originally subject to properly recorded and binding restrictions and originally governed by an incorporated homeowners association or property owners association as defined in the Marketable Record Title Act (as referred to in its approval letter).

The 1962 restrictions were recorded as a single page in the public records. They did not contain a legal description of the properties/land to be bound by or subject to the restrictions. There was no signature of the owner of the land to which the restrictions were intended to apply and bind (if those lands could even be accurately ascertained). In fact, there was no signature at all on the document, and it was certainly not executed in compliance with the requirements for two (2) subscribing witnesses and an acknowledgment/notarization. There were no enforcement rights in

the 1962 restrictions other than those that could be enforced by the Seller. Notably, the Seller was not identified anywhere in the 1962 restrictions. Further, there was no mention of a homeowners association at all in the 1962 restrictions, and there was certainly no mandatory membership in any association and no obligation for assessments of any kind, and therefore, no lien rights as asserted in the 1994 Bylaws. The Association was not in existence at the time of recording the 1962 restrictions. The Association was not incorporated until October 30, 1980. The first mention of an association was in the 1990 amended restrictions, which were predicated on the 1962 restrictions, which were void ab initio. The 1990 amended restrictions were not executed in conformance with Florida Statute §689.01 nor §695.26, which requires execution of the document in the presence of two subscribing witnesses. The 1990 restrictions themselves state that membership wasn't mandatory at the time they were recorded, and mandatory membership was only applicable to new owners taking title after the recording of the 1990 restrictions, and therefore, membership is not mandatory for ALL lot owners throughout Three Rivers Estates and Association is not a property owners' association. The 1994 Bylaws purport to give lien rights to the association and are now recorded in the public records of Columbia in a document executed with the formalities of a valid covenant running with the land, arguably constituting covenants running with the land after the Department approved the Revived Declaration and other governing documents. These are changes in the original scheme of development that are not legal and valid. The 1994 Bylaws are an attempt to convert the association into a Chapter 720 homeowners association with the authority to impose liens and foreclose on lots, which is not permissible and which is more restrictive than any prior covenants or restrictions that arguably could apply to the lots of Three Rivers Estates and are attached to and part of the Revived Declaration.

(c) Whether the Department correctly approved the Revived Declaration and other governing documents where they fail to comply with the requirements of revitalization described in Florida Statute §720.404. There were no valid 1962 restrictions, and the 1990 amended restrictions were based upon and predicated on the amendment provision of the 1962 restrictions, which were void ab initio. Revitalization of restrictions that were not previously valid and allowing the recording of the Articles of Incorporation and Bylaws as submitted place additional requirements on lots that are more restrictive than anything previously recorded.

(d) Whether the Department correctly approved the Revived Declaration, where there is a failure to clearly define the parcels to be subject to the Revived Declaration after the revitalization, and exactly who the “affected parcel owners” were. A vote of 100 lots was allegedly taken, and 55 of those allegedly consented. However, the Revived Declaration purports to bind 2,044 lots by the language on its face in both the certificate (first two pages of Exhibit “A” attached hereto) and in the introductory paragraph of the Revived Declaration itself. Both of these documents read this way when submitted to the Department for approval. Additionally, the names listed on Exhibit E to the certificate of the Revived Declaration and Exhibit E-1 of the submission to the Department, which purports to be the list of parcels to be subject to the Revived Declaration DOES NOT list all record owners for the described parcel. For example, Lot 7A of Section 1 lists Alexandra Stock as the property owner and the vote for this lot was cast by James Baker who is not listed for that lot.

(e) Whether the Department correctly approved the Revived Declaration where there was a failure to obtain the requisite majority consent and approval of the “affected parcel owners” of the Revived Declaration and other governing documents, and therefore, a failure to comply with Florida Statute §720.405(6).

4. RULE 28-106.201(2)(E). A CONCISE STATEMENT OF THE ULTIMATE FACTS ALLEGED, INCLUDING THE SPECIFIC FACTS THE PETITIONER CONTENDS WARRANT REVERSAL OR MODIFICATION OF THE DEPARTMENT'S PROPOSED ACTION.

The initial set of restrictions titled "3 Rivers Estates Fort White, Florida Restrictions" was recorded at O.R. Book 129, Page 90 of the public records of Columbia County, Florida on May 2, 1962 (referred to as "Original Restrictions"). The Original Restrictions were void ab initio as they do not clearly identify the land which the restrictions are meant to encumber, they do not identify the owner/Seller of the land to be encumbered who is authorizing and recording the restrictions; and they were not witnessed, signed, or notarized by any person whatsoever, owner of the land/Seller or otherwise.

The Statement of Restrictions & Protective Covenants for Three Rivers Estates, Columbia County, recorded at O.R. Book 733, Pages 144-146 of the public records of Columbia County, Florida on October 9, 1990 (referred to as "Amended Restrictions") is void ab initio as there were no valid Original Restrictions to amend. A group of owners cannot simply decide to form a corporation and impose restrictions on property that was not previously encumbered by the restrictions. Even if the Original Restrictions could somehow be found sufficient to bind parcels and provide an amendment provision, there was no mention of an association in the Original Restrictions and the amendment provision was not in any way adhered to. Even if the reference in the Original Restrictions allowing for amendments by the Seller AND a committee representing a majority of the homeowners was valid, and even if the association could be interpreted to be the committee to be representative of the homeowners despite it not being in existence in 1962, the Association. is the only signing party to the Amended Restrictions. There is no signature of the unidentified Seller, and there is no recorded Assignment of rights under the Original Restrictions

from the unidentified Seller to and in favor of the Association, authorizing it to sign on behalf of the Seller,

It is impossible to ascertain what lands the Original Restrictions were intended to encumber as there is no reference to a legal description, recorded plat, or even a subdivision that could be identified in the public records in 1962 as pertaining to a specified area of land. There is only a reference in the title of the one-page document to "3 Rivers Estates," and "3 Rivers Estates" was not a fully platted subdivision at the time. There is no platted property in Columbia County known as 3 Rivers Estates." Plats for the lands of Three Rivers Estates" were later approved by the County Commission for Columbia County (all but one (1) were well after the recording of the 1962 Original Restrictions) and eventually thereafter recorded as follows:

Three Rivers Estates Section No. 1 approved by County Commission May 1, 1962;

Three Rivers Estates Unit Section No. 1-A approved May 20, 1976;

Three Rivers Estates Unit 2 approved September 30, 1970;

Three Rivers Estates Unit Section No. 3 approved May 20, 1976;

Three Rivers Estates Unit No. 4 approved September 12, 1978;

Three Rivers Estates Unit 5 approved after December 1962;

Three Rivers Estates Unit 6 approved September 20, 1976;

Three Rivers Estates Unit No. 7 approved May 20, 1976;

Three Rivers Estates Unit No. 8 approved October 19, 1989;

Three Rivers Estates Unit No. 9 approved May 20, 1976;

Three Rivers Estates Unit No. 10 approved October 19, 1989;

Three Rivers Estates Section 11 approved May 1, 1962;

Three Rivers Estates Unit No. 12 approved September 12, 1978;

Three Rivers Estates Unit No. 14 approved September 12, 1978;
Three Rivers Estates Unit No. 17 approved October 19, 1989;
Three Rivers Estates Unit No. 18 approved October 19, 1989;
Three Rivers Estates Unit No. 19 approved October 19, 1989;
Three Rivers Estates Unit No. 20 approved October 19, 1989;
Three Rivers Estates Unit No. 21 approved October 19, 1989;
Three Rivers Estates Unit No. 22 approved October 19, 1989;
Three Rivers Estates Unit No. 23 approved April 4, 1973; and
Three Rivers Estates Unit No. 24 approved September 13, 1978.

Further muddying the waters as to lands that were intended to be encumbered by the Original Restrictions or the Amended Restrictions, various plats specifically exclude lots from the plats with a designation N.A.P. standing for Not a Part of This Plat. See examples of Plats for Units 2, 3 and 4 attached hereto as **Composite Exhibit "D"**, where lots are marked with an "x" and denoted N.A.P. (Not a Part of This Plat).

The referenced description of the real property comprising the Subdivision, as set forth in the certificate for the Revived Declaration is more particularly described in Schedule A attached thereto and includes the following:

1. Unit No. 1 according to the plat thereof recorded in Plat Book 3, Page 53.
2. Unit No. 2 according to the plat thereof recorded in Plat Book 4, Page 31.
3. Unit No. 3 according to the plat thereof recorded in Plat Book 4, Page 30.
4. Unit No. 4 according to the plat thereof recorded in Plat Book 4, Pages 116-116A.
5. Unit No. 5 according to the plat thereof recorded in Plat Book 4, Page 38.
6. Unit No. 6 according to the plat thereof recorded in Plat Book 4, Page 39.

7. Unit No. 7 according to the plat thereof recorded in Plat Book 4, Page 28.
8. Unit No. 8 according to the plat thereof recorded in Plat Book 6, Page 9.
9. Unit No. 9 according to the plat thereof recorded in Plat Book 4, Page 31.
10. Unit No. 10 according to the plat thereof recorded in Plat Book 6, Page 10.
11. Unit No. 12 according to the plat thereof recorded in Plat Book 4, Pages 117-117A.
12. Unit No. 14 according to the plat thereof recorded in Plat Book 4, Pages 118-11 BA.
13. Unit No. 17 according to the plat thereof recorded in Plat Book 6, Page 11.
14. Unit No. 18 according to the plat thereof recorded in Plat Book 6, Page 12.
15. Unit No. 19 according to the plat thereof recorded in Plat Book 6, Page 13.
16. Unit No. 20 according to the plat thereof recorded in Plat Book 6, Page 14.
17. Unit No. 21 according to the plat thereof recorded in Plat Book 6, Page 15.
18. Unit No. 22 according to the plat thereof recorded in Plat Book 6, Page 16.
19. Unit No. 23 according to the plat thereof recorded in Plat Book 4, Pages 80-80A.
20. Unit No. 24 according to the plat thereof recorded in Plat Book 4, Page 119.

The introductory paragraph of the Revived Declaration lists Units 1, 1-A, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 17, 18, 19, 20, 21, 22, 23, and 24 of Three Rivers Estates as being subject to the restrictions (with the exception of Lot 1AAA of Unit 11).

The Schedule A listing of land/real property set forth as comprising the Subdivision notably omits Units 1-A and 11, and yet parcels within Units 1-A and Section 11 of Three Rivers Estates are listed in Exhibit E to the certificate of the Revived Declaration as parcels to be subject to the restrictions in the future. Although Units 1-A and 11 are referenced in the Amended Restrictions as being a part of the “subdivision of subdivisions” to which the Amended Restrictions purport to apply, encumber and run with, they are not referenced in the Schedule A setting forth the real

property comprising the "Subdivision" in the certificate of recording the Revived Declaration although they are included in the graphic depiction attached as Exhibit D to the certificate of the Revived Declaration.

Paragraph 9 of the certificate to the Revived Declaration states as follows:

In consideration of the foregoing, the Association hereby records the Revived Declaration and other governing documents pursuant to section 720.403 et seq., Florida Statutes and **further restricts the use, as hereinafter provided, of all of the lots in the Subdivision shown and described in Exhibit "D" attached hereto;** the Association places upon the land subject to the declaration the following Revived Declaration and declares to and agrees with each and every person who is or who may become an owner of any of said lots that said lots are bound by the covenants set forth in herein and that the property described in these restrictions will be held and enjoyed subject to and with the benefit and advantage of the following attached documents. (Emphasis added).

Exhibit D, as referred to in the above paragraph, is the graphic depiction of ALL OF THE LOTS, not just those that were included as the alleged "affected parcel owners" for which the majority consent was allegedly obtained. The consent was alleged to be 55 in favor of revitalization out of a total of 100 "affected parcel owners" and yet the documents as recorded for the Revived Declaration appear to apply to ALL OF THE LOTS and not just those included as the "affected parcel owners" whom must have voted by at least a majority consent to revitalize the Declaration. It is also important to note that more than one (1) person included voting for the revitalization are property owners in Units 1-A and 11, which are not Units listed in Schedule A of the submission to the Department.

The Department cannot condone and allow the recording of the Revived Declaration as it was submitted to the Department containing paragraph 9 as set forth above and this is clearly stating the Revived Declaration is to bind ALL lots shown on Exhibit D to the certificate of the Revived Declaration and Exhibit D is the graphic depiction of ALL lots throughout Three Rivers Estates in Columbia County, Florida. If the Revived Declaration purports to encumber ALL lots then ALL lots should have been included as "affected parcel owners," and the names of the owners and legal descriptions for ALL lots should have been included in Exhibit E to the certificate of the Revived Declaration to comply with Florida Statute §720.405(2), which expressly provides as follows:

(2) The organizing committee shall prepare or cause to be prepared the complete text of the proposed revised declaration of covenants to be submitted to the parcel owners for approval. **The proposed revived documents must identify each parcel that is to be subject to the governing documents by its legal description, and by the name of the parcel owner or the person in whose name the parcel is assessed on the last completed tax assessment roll of the county at the time when the proposed revived declaration is submitted for approval by the parcel owners. (Emphasis added).**

Any approval of restrictions purportedly revitalizing the Original Restrictions and/or Amended Restrictions violates Florida Statute §720.405(4)(d) as obviously being more restrictive on the parcel owners, given that the parcel owners were not subject to restrictions being applicable whatsoever where the Original Restrictions were void ab initio.

Florida Statute §720.405(5) provides that a copy of the complete text of the proposed revised declaration of covenants, the proposed new or existing articles of incorporation and bylaws

of the association, **and a graphic depiction of the property to be governed by the revived declaration** shall be presented to all of the affected parcel owners by mail or hand delivery not less than 14 days before the time that the consent of the affected parcel owners to the proposed governing documents is sought by the organizing committee. The graphic depiction of the property provided with the revitalization packet submitted to the owners includes all properties/parcels in the various units of Three Rivers Estates, instead of graphically depicting only those properties/parcels to be governed by the restrictions upon a successful revitalization of the restrictions. The graphic depiction of the real property reflects 2,044 lots or parcels, whereas the consents of the owners that were submitted to the Department only represent a tiny fraction of the overall number of parcels reflected on the graphic depiction (55 consents out of a total of 100 “affected parcel owners”).

The correct “affected parcel owners” were not included from the revitalization process and the necessary consent of a majority of the affected parcel owners WAS NOT obtained. There are deficiencies in the consents provided, and only 41 of the consents appear to be valid, which is insufficient to constitute a majority of 97 or the 100 number utilized by the Department as the number of affected parcel owners. The number of affected parcel owners is not accurate, and there were either owners included in the “affected parcel owners” listed in Exhibit E to the certificate of the Revived Declaration that should not have been included or there were owners excluded in the “affected parcel owners” listed in Exhibit E to the certificate of the Revived Declaration who should have been included. EITHER WAY, THE REQUISITE CONSENT OF A MAJORITY OF THE AFFECTED PARCELOWNERS WAS NOT OBTAINED.

If seeking to have the Original Restrictions and Amended Restrictions only apply to fewer than all parcels originally purported to be subject to the restrictions, then the submission to the parcel owners and the submission to the Department and the documents ultimately recorded would need to clearly reflect the properties/parcels being subject to the restrictions as less than those originally subjected to the restrictions. As submitted to the “affected parcel owners” for their consent and as submitted to the Department for approval, the restrictions are extremely unclear as to which properties/parcels they are purporting to encumber and govern in the future. This will create clouds on title or continue clouds on title that would otherwise be cured through the Marketable Record Title Act on thousands of lots. It is unclear which parcels were considered to be the affected parcels when the recitations of the documents assert that they apply to and govern all parcels throughout the various Sections/Units of Three Rivers Estates. Florida Statute §720.406(1)(c) requires the legal description of each parcel to be subject to the revived declaration and other governing documents, and a plat or other graphic depiction of the affected properties in the community to be submitted to the Department. The submitted graphic depiction is of ALL lots throughout Three Rivers Estates, and yet the revitalization was supposedly approved by “affected parcel owners,” making up a minuscule fraction of the overall “affected properties.” How is it that “affected parcel owners” are not all of those owners having an ownership interest in the “affected properties”? A graphic depiction should have been supplied, crossing out the lots that were not being included in the revitalization vote as “affected parcel owners.”

5. Rule 28-106.201(2)(f). A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the Department's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes.

Florida Statute §720.406(1)(b) provides:

A verified copy of the previous declaration of covenants and other previous governing documents for the community, including any amendments thereto.

The Bylaws submitted to the Department were only the 1994 Bylaws, and the 1987 Bylaws were not included anywhere in the submission. The 1994 Bylaws specifically state in the last paragraph that “these By-Laws were approved by a special meeting of the Board held on January 10, 1987, and amended by a vote of the membership at the annual meeting held October 8, 1994. Not submitting the 1987 Bylaws and providing no explanation that the 1987 Bylaws were not available or could not be located violates the above-referenced statute.

Also not included were an amendment to the Articles of Incorporation, a recorded Notice of Preservation recorded in 2020, and a recorded Warranty Deed imposing restrictions on land identified as being part of the Subdivision governed by the revitalized restrictions. The Affidavit of Governing Documents failed to explain why these required documents were not provided or otherwise unavailable.

Florida Statute §720.404 provides the requirements for revival of a declaration. Florida Statute §720.404 specifically provides:

Parcel owners in a community are eligible to seek approval from the Department of Commerce to revive a declaration of covenants under this act if **all of the following requirements are met:**

- (1) All parcels to be governed by the revived declaration **must have been once governed by a previous declaration that has ceased to govern some or all of the parcels in the community;**
- (2) The revived declaration must be approved in the manner provided in s. 720.405(6); and

(3) The revived declaration may not contain covenants that are more restrictive on the parcel owners than the covenants contained in the previous declaration... (with limited exceptions set forth). (emphasis added).

It is impossible to ascertain what lands the Original Restrictions were intended to encumber as there is no reference to a legal description, recorded plat, or even a subdivision that could be identified in the public records in 1962 as pertaining to a specified area of land. There is only a reference in the title of the one-page document to "3 Rivers Estates". There is no platted subdivision known as "3 Rivers Estates". Three Rivers Estates and the various units were not a fully platted subdivision at the time. Except for one (1) unit, the Plats for the lands of making up the Units of Three Rivers Estates" were not recorded until well after the 1962 Original Restrictions were recorded and just prior to the 1990 Amended Restrictions.

There were no valid Original Restrictions. It is impossible to determine which parcels were intended to be bound by the Original Restrictions as there was no legal description or plat reference for the land to be encumbered by the restrictions whatsoever. There was no Seller (property owner) identified in the Original Restrictions. The Original Restrictions were not executed in compliance with Florida Statute §689.01 nor §695.26, which requires execution of the document in the presence of two (2) subscribing witnesses and a notary. *Hagan v. Sabal Palms, Inc.*, 186 So.2d 302 (Fla. 2d DCA 1966) held that restrictive covenants must be created by a valid written instrument. The 1962 Original Restrictions did not create valid restrictive covenants, including which could be amended or revitalized.

Any approval of restrictions purportedly revitalizing the 1962 Original Restrictions and/or the 1990 Amended Restrictions violates Florida Statute §720.405(4)(d) as obviously being more

restrictive on the parcel owners given that the parcel owners were not subject to restrictions being applicable whatsoever where the Original Restrictions were void ab initio.

Florida law requires that amendment authority derive from a valid legal source. In *Van Loan v. Heather Hills Property Owners Association*, the Second District Court of Appeal reaffirmed that subdivision restrictions "normally cannot be amended without the consent of all the property owners" unless specific amendment authority has been validly reserved *Van Loan v. Heather Hills Property Owners Association, Inc.*, 216 So.3d 18 (Fla. 2d DCA 2016). The court emphasized that when "there was no express delegation of authority to the HHPOA to amend the restrictive covenants, the restrictive covenants can only be amended by the consent of all the property owners in the subdivision," *Van Loan v. Heather Hills Property Owners Association, Inc.*, 216 So. 3d 18 (Fla. 2d DCA 2016).

The Original Restrictions were void ab initio, and therefore, there was no amendment provision, and each and every lot owner would have had to sign off on the Amended Restrictions in order for them to be valid. Even if the amendment provision in the Original Restrictions be validly relied upon as a proper predicate and authority to vote on and record the Amended Restrictions, the Amended Restrictions did not comply with the amendment provision in the Original Restrictions and exceeded the reasonableness standards and adherence to the common scheme of development that would have been applied pursuant to applicable case law.

In *Nelle v. Loch Haven Homeowners Ass'n, Inc.*, 413 So. 2nd 28 (Fla. 1982) a reservation of the right to amend restrictions would allow the Grantor to change the entire character of a subdivision; the modern view is that a reserved power to modify restrictions must be exercised in a reasonable manner so as not to destroy the general plan of development. The 1962 Original

Restrictions did not form a homeowners association, nor did they require mandatory membership or monetary obligations for which the failure to pay could result in a lien against the lot.

The 1990 Amended Restrictions are not a continuation of a scheme of development but a radical change of plans, altering the relationship of parcel owners to each other and the right of individual control over one's own property.

In *Holiday Pines Prop. v. Wetherington*, 596 So. 2d 84 (Fla. Dist. Ct. App 1992), the court ruled that "a subdivision with restrictive covenants retains to the homeowner a degree of individual control over the owner's property that is lost when mandatorily transferred to a homeowner's association."

Florida Statute §720.405(2) expressly provides as follows:

(2) The organizing committee shall prepare or cause to be prepared the complete text of the proposed revised declaration of covenants to be submitted to the parcel owners for approval. **The proposed revived documents must identify each parcel that is to be subject to the governing documents by its legal description, and by the name of the parcel owner or the person in whose name the parcel is assessed on the last completed tax assessment roll** of the county at the time when the proposed revived declaration is submitted for approval by the parcel owners. (Emphasis added).

If the Revived Declaration purports to encumber ALL lots then ALL lots should have been included as "affected parcel owners," and the names of the owners and legal descriptions for ALL lots should have been included in Exhibit E to the certificate for the Revived Declaration. If this had been done, the consents received would have come nowhere near even close to constituting

the requisite majority consent of all affected parcel owners to revitalize, and the Department should reverse its approval on this fact alone based upon the submission and the inconsistencies therein.

Florida Statute §720.405(5) provides:

a copy of the complete text of the proposed revised declaration of covenants, the proposed new or existing articles of incorporation and bylaws of the association, **and a graphic depiction of the property to be governed by the revived declaration shall be presented to all of the affected parcel owners** by mail or hand delivery not less than 14 days before the time that the consent of the affected parcel owners to the proposed governing documents is sought by the organizing committee. (Emphasis added).

The graphic depiction of the property provided with the revitalization packet submitted to the owners includes all properties/parcels in the various units of Three Rivers Estates, instead of graphically depicting only those properties/parcels to be governed by the restrictions upon a successful revitalization of the restrictions. The graphic depiction of the real property reflects hundreds of lots or parcels, whereas the consents of the owners that were submitted to the Department only represent a small fraction of the overall number of parcels reflected on the graphic depiction (55 yes votes out of a total of 100 “affected parcel owners”).

The revitalization packet as submitted to the alleged “affected parcel owners,” is confusing at best. The explanation letter to the parcel owners stated: “In order to address this situation, and to revitalize the governing documents of the Subdivision, pursuant to chapter 720, Florida Statutes, the consent of a majority of the owners of the affected parcels is needed.” The proposed recording upon approval of the revitalization listed all of the properties comprising the “Subdivision” on Schedule A and this included ALL of the Units that were referenced in the 1990 Amended

Restrictions (with the exception of Unit 1-A and Unit 11) and yet the lots within each of the individual platted Units were not included in the “affected parcel owners” and Schedule E reflecting the parcels to continue to be subject to the Declaration only reference a total of 97-100 lots out of 2,044 lots.

Again, the bottom line is that the scope of the “affected properties” and the “affected parcel owners” was not clearly defined in the submission and the requisite majority consent of all of the affected parcel owners was not obtained and there was a failure to comply with Florida Statute §720.405(6) and this is a fatal flaw requiring reversal of the approval of the revitalization as submitted.

In the revitalization checklist from the DOC submission and review, the following items are incorrectly checked off as YES (being compliant):

1. No objection.
2. Community is a residential community that was previously subject to a declaration of covenants that has ceased to govern one or more parcels in the community. As demonstrated above, the Community was never properly subjected to a declaration of covenants.
3. The full text of the proposed revived declaration of covenants and articles of incorporation and bylaws of the homeowners' association. As discussed above, the Declaration presented should have included a revision of the description of the real property/land it is to encumber, where the submission seeks approval based upon less than ALL of the parcels originally subject to the restrictions being included in the revived Declaration. Including ALL of the original lands in the description of

the land being encumbered is extremely misleading and will create a cloud on title of well over 1,000 lots.

4. A verified copy of the previous declaration of covenants and other previous governing documents for the community, including any amendments thereto. The Bylaws are alleged to be a governing document, and yet only the amended 1994 Bylaws were provided without the earlier Bylaws being provided at all or any explanation that they were lost, etc. Clearly, the Bylaws added lien rights and read as though there is mandatory membership even though the Articles of Incorporation read as though membership is determined by and at the discretion of the Board of Directors and subject to termination for failure to pay "any indebtedness" to the corporation. The submission reviewed by the Department also lacked the 2008 Amendment to the Articles of Incorporation, the 2020 Preservation, and the 1986 Warranty Deed imposing restrictions on property subject to the revitalized Declaration and other governing documents.
5. **The legal description of each parcel is to be subject to the revived declaration and other governing documents, and a plat or other graphic depiction of the affected properties in the community. The legal descriptions of parcels in Exhibit E-1 of the submission to the Department DO NOT MATCH the parcels in the graphic depiction of the "affected properties" shown in Exhibit F-1 of the submission to the Department. To the extent that the "affected properties" are ALL of the lots within the various Sections/Units of Three Rivers Estates then the consent obtained from the affected parcel owners was a fraction of the majority consent needed to authorize a revitalization. To the extent that**

the “affected properties” are only those that are sought to be subject to the revitalized Declaration, the graphic depiction should have reflected ONLY those parcels legally described in Exhibit E-1 (Schedule E to the certificate of the Revived Declaration).

6. **A majority consent of the “affected parcel owners” was NOT obtained, where the language of the Revived Declaration states it encumbers all of the various Sections/Units throughout Three Rivers Estates as opposed to clarifying and clearly stating that it only encumbers and binds those specific parcels identified in Exhibit E to the certificate of the Revived Declaration.**
7. Agreed that an affidavit affirming compliance with statute was supplied.
8. All parcels to be governed by the revived declaration must have been once governed by a previous declaration that has ceased to govern some or all of the parcels in the community. Restrictions were void from the outset, and therefore any lots asserted to have been previously bound arguably never were bound by the restrictions.
9. The necessary approval of a majority of the affected parcel owners was not in fact, obtained, as the proper pool of affected parcel owners was not included in the revitalization process and vote.
10. The Revived Declaration is more restrictive than the previous Declaration if for no other reason than the Bylaws are now being recorded and assert lien rights against the lots, which never previously existed as recorded covenants running with the land.
11. No objection.
12. No objection.

13. No objection.

14. No objection.

Numbers 8 through 10 have been thoroughly addressed throughout this entire petition as to why Florida Statute §§720.404; 720.405; and 720.406 have been violated.

6. Rule 28-106.201 (2)(g). A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Department's proposed action.

Petitioner seeks prompt reversal and retraction of the Department's revitalization approval letter dated January 28, 2026, and requests the Department issue a full and complete Final Order of Denial of the application for covenant revitalization of Three Rivers Estates Original Restrictions and/or Amended Restrictions under both Chapter §712 and Chapter §720, Part III, Florida Statutes.

At the very least, there should be clarification that the Revived Declaration ONLY applies to the lots specified in Exhibit E to the certificate of the Revived Declaration and that NO OTHER lots are subject to the Revived Declaration without their joinder and consent, regardless of what else may be of record.

Petitioner reserves the right to amend this Petition.

WHEREFORE, Petitioner requests that the material facts contained herein are not disputed but supported by attached documents and documents as originally contained in the submittal to the Department with the request for approval of the Revived Declaration; and that the Community has failed to comply with both Chapter §712 and Chapter §720, Part III, Florida Statutes because the Revived Declaration violates the Florida Statutes identified in this Petition; and Petitioner must be granted the relief sought.

Respectfully Submitted this 27th day of February, 2026.

/s/ Jeremy V. Anderson

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Defendant's Motion to Petition for Formal Administrative Proceedings has been furnished in accordance with Rule 28-106.104, Florida Administrative Code to the following parties: Florida Department of Commerce via Email.

/s/ Jeremy V. Anderson

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