



Tulsa County Clerk - EARLENE WILSON  
Doc # 2011110868 Page(s): 46  
Recorded 12/16/2011 at 08:42 AM  
Receipt # 309292 Fee \$103.00

## **SECOND AMENDMENT TO THE DEED OF DEDICATION**

WHEREAS, the Deed of Dedication (the "Dedication") for Timberling Hollow was recorded on December 3, 2003 in Book 7190 at 257 in the land records of the Tulsa County Clerk as part of the Plat of Timberling Hollow, Plat No. 5744 (the "Plat").

WHEREAS, the Dedication contains certain covenants related to the use, occupation and enjoyment of the following described real property:

All of Timberling Hollow, a Subdivision in the City of Sand Springs, Tulsa County, State of Oklahoma, according to the recorded Plat thereof,

("Timberling Hollow").

WHEREAS, Section V(C) of the Dedication provides that the covenants within Section II., Private Building and Use Restrictions, may be amended or terminated at any time by a written instrument signed and acknowledged by the owners of more than 50 percent of the lots within the subdivision.

WHEREAS, the provisions of any instruments amending or terminating covenants shall be effective from and after the date it is properly recorded.

WHEREAS, the Owner/Developer of the subdivision, Jerry R. Gordon Development, Inc. previously executed an Amendment to the Deed of Dedication and Restrictive Covenants of Timberling Hollow, which was recorded on February 2, 2009 as Document No. 2009-008329 (the "First Amendment") when Jerry R. Gordon was the owner of more than 50 percent of the lots of Timberling Hollow.

WHEREAS, the owner/developer has disposed of more than 50 percent of the lots of Timberling Hollow.

WHEREAS, the undersigned homeowners constitute more than 50 percent of the 158 lots of Timberling Hollow, and the undersigned homeowners desire to make this Second Amended Deed of Dedication.

NOW, THEREFORE, pursuant to the provisions of the Dedication, as amended by the First Amendment, the Dedication is hereby amended as follows:

1. The First Amendment is hereby revoked in its entirety.
2. The paragraph in Section II(B) that immediately follows Section II(B)(2), is stricken. The following paragraph is adopted in place of the paragraph in Section II(B) immediately following Section II(B)(2):

THE POWERS AND DUTIES OF THE COMMITTEE OR ITS DESIGNATED REPRESENTATIVE ESTABLISHED BY THE DEED OF DEDICATION RECORDED DECEMBER 3, 2003 ARE TERMINATED EFFECTIVE JANUARY 1, 2006. HEREAFTER, THE POWERS AND DUTIES OF THE ARCHITECTURAL COMMITTEE ARE TO BE EXERCISED BY THE ARCHITECTURAL COMMITTEE CREATED BY THE HOMEOWNERS' ASSOCIATION ESTABLISHED IN ACCORDANCE WITH SECTION III. THE ARCHITECTURAL COMMITTEE MUST BE

ESTABLISHED BY THE BOARD OF THE HOMEOWNERS' ASSOCIATION AFTER THE ELECTION OF DIRECTORS AT THE FIRST ANNUAL MEETING OF THE MEMBERS OF THE HOMEOWNERS' ASSOCIATION (AS PROVIDED IN SECTION III(D)). THE HOMEOWNERS' ASSOCIATION WILL ESTABLISH THE NEW ARCHITECTURAL COMMITTEE AND APPOINT OR ELECT COMMITTEE MEMBERS. EFFECTIVE AS OF THE DATE OF THE RECORDING OF THIS SECOND AMENDMENT TO THE DEED OF DEDICATION, THERE SHALL BE NO ERECTION, PLACEMENT OR ALTERATION OF ANY BUILDING, FENCE, OR WALL UNTIL THE ARCHITECTURAL COMMITTEE OF THE HOMEOWNERS' ASSOCIATION IS ESTABLISHED AFTER THE FIRST ANNUAL MEETING OF THE MEMBERS OF THE HOMEOWNERS' ASSOCIATION.

3. Due to the adoption of the language above and to avoid any potential confusion regarding the membership of the Architectural Committee provided in Section II(B) of the Dedication, the language in Section II(B)(1) is stricken. The following paragraph is adopted in place of the existing Section II(B)(1):

NO BUILDING, FENCE, OR WALL SHALL BE ERECTED, PLACED OR ALTERED ON ANY LOT IN THIS SUBDIVISION UNTIL THE BUILDING PLANS AND SPECIFICATIONS, DRAINAGE AND GRADING PLANS, EXTERIOR COLOR SCHEME AND MATERIAL THEREOF, AND PLOT PLAN, WHICH PLOT PLAN SHOWS THE LOCATION AND FACING OF SUCH BUILDING HAVE BEEN APPROVED IN WRITING THE ARCHITECTURAL COMMITTEE CREATED BY THE HOMEOWNERS' ASSOCIATION ESTABLISHED IN ACCORDANCE WITH SECTION III. SUCH ARCHITECTURAL COMMITTEE WILL HAVE FULL AUTHORITY TO APPROVE OR DISAPPROVE SUCH PLANS, SPECIFICATIONS, COLOR SCHEMES, MATERIALS AND PLOT PLAN. IN THE EVENT THE ARCHITECTURAL COMMITTEE FAILS TO APPROVE OR DISAPPROVE ANY SUCH PLANS, SPECIFICATIONS, COLOR SCHEME, MATERIALS AND PLOT PLANS SUBMITTED TO IT AS HEREIN REQUIRED WITHIN THIRTY (30) DAYS AFTER SUCH SUBMISSION, OR IN THE EVENT NO SUIT TO ENJOIN THE ERECTION OF SUCH BUILDING OR THE MAKING OF SUCH ALTERATION HAS BEEN COMMENCED PRIOR TO THE COMPLETION THEREOF, SUCH APPROVAL SHALL NOT BE REQUIRED AND THIS COVENANT SHALL BE DEEMED TO HAVE BEEN FULLY COMPLIED WITH.

4. Section II(C)(4) related to the power of the Architectural Committee to waive, in the particular instance, the floor area requirements set out in paragraphs 1 and 2 of Section II(C) is stricken.
5. Paragraphs (B) and (C) of Section III is stricken in full, and replaced with the following language:

#### B. MEMBERSHIP

EVERY PERSON OR ENTITY WHO IS A RECORD OWNER OF AT LEAST ONE RESIDENTIAL LOT WITHIN TIMBERLING HOLLOW SHALL AUTOMATICALLY BECOME A MEMBER OF THE HOMEOWNERS' ASSOCIATION. MEMBERSHIP, AS ABOVE SET FORTH, SHALL BE MANDATORY AND SHALL BE APPURTENANT TO AND MAY NOT BE SEPARATED FROM THE OWNERSHIP OF A LOT. UPON THE CONCLUSION OF A SUCCESSFUL ANNUAL MEETING OF THE MEMBERS OF THE HOMEOWNERS' ASSOCIATION (AS PROVIDED IN SECTION III(D)) AND NOT BEFORE, MEMBERS OF THE HOMEOWNERS' ASSOCIATION WILL BE SUBJECT TO DUES PAYMENTS IN THE AMOUNTS AND TIMES DETERMINED BY THE HOMEOWNERS' ASSOCIATION. THE RECORD OWNER OF ANY LOT UPON WHICH NO

SINGLE FAMILY HOME IS CONSTRUCTED WILL BE SUBJECT TO DUES AT 20% OF THE AMOUNT REQUIRED FROM MEMBERS OWNING A LOT UPON WHICH A SINGLE FAMILY HOME IS FULLY CONSTRUCTED. FAILURE TO MAKE A TIMELY PAYMENT OF DUES AS DETERMINED BY THE BOARD OF DIRECTORS OF THE HOMEOWNERS' ASSOCIATION AFTER THE FIRST ANNUAL MEETING OF THE MEMBERS OF THE HOMEOWNERS' ASSOCIATION (AS PROVIDED IN SECTION III(D)) SHALL RESULT IN THE AUTOMATIC EXPULSION OF ANY MEMBER FROM THE MEMBER'S POSITION AS A DIRECTOR OR OFFICER OF THE HOMEOWNERS' ASSOCIATION AND EXPULSION FROM THE MEMBER'S POSITION ON THE ARCHITECTURAL COMMITTEE. THE REPLACEMENT OF ANY DIRECTOR, OFFICER, OR MEMBER OF THE ARCHITECTURAL COMMITTEE WILL BE GOVERNED BY THE BYLAWS OF THE HOMEOWNERS ASSOCIATION AS ADOPTED AFTER THE FIRST ANNUAL MEETING OF MEMBERS OF THE HOMEOWNERS' ASSOCIATION (AS PROVIDED IN SECTION III(D)).

#### C. ASSESSMENT

UPON THE CONCLUSION OF A SUCCESSFUL ANNUAL MEETING OF THE MEMBERS OF THE HOMEOWNERS' ASSOCIATION (AS PROVIDED IN SECTION III(D)) AND NOT BEFORE, MEMBERS OF THE HOMEOWNERS' ASSOCIATION WILL BE SUBJECT TO ASSESSMENTS AS DETERMINED BY THE HOMEOWNERS' ASSOCIATION. THE RECORD OWNER OF ANY LOT UPON WHICH NO SINGLE FAMILY HOME IS CONSTRUCTED WILL BE SUBJECT TO ASSESSMENTS AT 20% OF THE AMOUNT REQUIRED FROM MEMBERS OWNING A LOT UPON WHICH A SINGLE FAMILY HOME IS FULLY CONSTRUCTED. FAILURE TO MAKE A TIMELY PAYMENT OF ASSESSMENTS AS DETERMINED BY THE BOARD OF DIRECTORS OF THE HOMEOWNERS' ASSOCIATION AFTER THE FIRST ANNUAL MEETING OF THE MEMBERS OF THE HOMEOWNERS' ASSOCIATION (AS PROVIDED IN SECTION III(D)) SHALL RESULT IN THE AUTOMATIC EXPULSION OF ANY MEMBER FROM THE MEMBER'S POSITION AS A DIRECTOR OR OFFICER OF THE HOMEOWNERS' ASSOCIATION AND EXPULSION FROM THE MEMBER'S POSITION ON THE ARCHITECTURAL COMMITTEE. THE REPLACEMENT OF ANY DIRECTOR, OFFICER, OR MEMBER OF THE ARCHITECTURAL COMMITTEE WILL BE GOVERNED BY THE BYLAWS OF THE HOMEOWNERS ASSOCIATION AS ADOPTED AFTER THE FIRST ANNUAL MEETING OF MEMBERS OF THE HOMEOWNERS' ASSOCIATION (AS PROVIDED IN SECTION III(D)).

6. A new paragraph is adopted in Section III to be numbered paragraph (D) of section III, which states as follows:

#### D. FIRST ANNUAL MEETING

**CALL TO MEETING:** THE FIRST ANNUAL MEETING OF THE MEMBERS OF THE HOMEOWNERS' ASSOCIATION MUST BE CALLED BY THE INITIAL DIRECTOR OF THE HOMEOWNERS' ASSOCIATION, JERRY GORDON, WITHIN THIRTY (30) DAYS FROM THE DATE THIS AMENDMENT IS RECORDED. THE LOCATION OF THE FIRST ANNUAL MEETING OF THE MEMBERS OF THE HOMEOWNERS' ASSOCIATION MUST TAKE PLACE WITHIN TIMBERLING HOLLOW OR, IF NOT WITHIN TIMBERLING HOLLOW, AT A LOCATION NOT MORE THAN TWO (2) MILES FROM TIMBERLING HOLLOW. THE FIRST ANNUAL MEETING OF THE MEMBERS OF THE HOMEOWNERS' ASSOCIATION SHALL BEGIN AT SIX O'CLOCK P.M. (6:00 P.M.) ON ANY MONDAY, TUESDAY, WEDNESDAY, OR THURSDAY. NOTICE OF THE FIRST ANNUAL MEETING OF THE MEMBERS OF THE HOMEOWNERS ASSOCIATION MUST BE DELIVERED TO EACH MEMBER (AS SET FORTH IN SECTION III(B)) BY DELIVERY VIA FIRST CLASS MAIL. NOTICE MUST BE MADE MORE

THAN TWO WEEKS AND NO MORE THAN FOUR WEEKS PRIOR TO THE DATE OF THE SCHEDULED MEETING. MEMBERS MAY BE PRESENT IN PERSON OR BY A SIGNED PROXY SPECIFICALLY DESIGNATING ANOTHER INDIVIDUAL TO ACT ON THE BEHALF OF SAID OWNER. IF NECESSARY, ANY MEMBER MAY SEEK AND OBTAIN AN ORDER FROM A COURT OF COMPETENT JURISDICTION CALLING FOR AN ANNUAL MEETING OF THE MEMBERS OF THE HOMEOWNERS' ASSOCIATION IN ACCORDANCE WITH THE PROCEDURE CONTAINED HEREIN. **VOTING POWER:** LOTS UPON WHICH A FULLY CONSTRUCTED SINGLE FAMILY HOME IS BUILT SHALL HAVE THE VOTING POWER OF A FULL VOTE FOR PURPOSES OF QUORUM AND ALL VOTING. LOTS WITHOUT A SINGLE FAMILY HOME FULLY CONSTRUCTED THEREON SHALL BE COUNTED AS ONE FIFTH (1/5) OF A VOTE FOR PURPOSES OF ESTABLISHING A QUORUM AND ALL VOTING. A MEMBER OWNING MORE THAN ONE LOT SHALL HAVE THE VOTING POWER EQUAL TO THE SUM OF THE VOTING POWER OF ALL LOTS OWNED BY THE MEMBER. SUCH MEMBERS MAY NOT DIVIDE VOTES. **PROCEDURE AT THE MEETING:** CHARLES RIDENER AND/OR CHRIS RECTOR WILL PRESIDE AT THE FIRST ANNUAL MEETING OF THE MEMBERS OF THE HOMEOWNERS ASSOCIATION. A QUORUM TO CONDUCT BUSINESS SHALL EXIST IF THE VOTING POWER PRESENT IN PERSON OR BY PROXY CONSTITUTES MORE THAN 50% OF THE TOTAL VOTING POWER OF THE MEMBERS OF THE HOMEOWNERS ASSOCIATION ON THE DATE OF THE NOTICE OF THE MEETING. IF A QUORUM DOES NOT EXIST, THE MEMBERS PRESENT SHALL SELECT BY THE PLURALITY VOTE OF THE MEMBERS THEN PRESENT A FUTURE DATE IN ACCORDANCE WITH THE PROVISIONS OF THIS PARAGRAPH NOT LATER THAN 30 DAYS FROM THE DATE PREVIOUSLY SELECTED TO CONDUCT THE ANNUAL MEETING OF THE MEMBERS OF THE HOMEOWNERS ASSOCIATION AND SHALL ADJOURN THE MEETING. IF A QUORUM IS PRESENT, THE MEMBERS SHALL ELECT FIVE DIRECTORS TO SERVE ON THE BOARD OF DIRECTORS. ONLY MEMBERS OR PRINCIPALS OF A MEMBER (IF A LEGAL ENTITY) ARE ELIGIBLE FOR ELECTION AS DIRECTORS. MEMBERS MAY CAST ONE VOTE FOR EACH SEAT ON THE BOARD OF DIRECTORS AND MAY NOT VOTE FOR THE SAME CANDIDATE FOR MULTIPLE SEATS. CUMULATIVE VOTING IS NOT PERMITTED. ANY VOTE FOR THE SAME PERSON ON SEPARATE BOARD SEATS WILL BE DISREGARDED. THE FIVE CANDIDATES RECEIVING THE MOST VOTES, EVEN IF ONLY A PLURALITY, SHALL BE ELECTED THE BOARD OF DIRECTORS OF THE HOMEOWNERS ASSOCIATION. **VALIDITY OF MEETING:** SHOULD A MEETING NOT BE HELD IN ACCORDANCE WITH THE PROCEDURE SET FORTH IN THIS PARAGRAPH, IT WILL NOT BE CONSIDERED THE FIRST ANNUAL MEETING OF THE MEMBERS OF THE HOMEOWNERS' ASSOCIATION FOR PURPOSES OF ANY OTHER PROVISION IN THIS DEED OF DEDICATION. **BOARD ACTION AFTER THE FIRST ANNUAL MEETING:** AFTER THE FIRST ANNUAL MEETING OF THE MEMBERS OF THE HOMEOWNERS ASSOCIATION, THE NEWLY INSTALLED BOARD OF DIRECTORS MAY ADOPT OR AMEND BYLAWS IN ACCORDANCE WITH THE JUDGMENT OF THE BOARD OF DIRECTORS WITHOUT REGARD TO THE REQUIREMENTS SET FORTH HEREIN WITH RESPECT TO THE FIRST ANNUAL MEETING OF THE MEMBERS OF THE HOMEOWNERS' ASSOCIATION.

7. A new paragraph is adopted in Section III to be numbered paragraph (E) of section III, which states as follows:

**E. AUTHORITY OF THE HOMEOWNERS' ASSOCIATION; INCONSISTENT PROVISIONS**

IN ADDITION TO THE POWERS ENUMERATED HEREIN AND POWERS PROVIDED TO ANY CORPORATION, THE BOARD OF DIRECTORS, ACTING ON BEHALF OF THE HOMEOWNERS' ASSOCIATION AFTER THE FIRST ANNUAL MEETING OF THE MEMBERS OF THE HOMEOWNERS' ASSOCIATION, MAY ADOPT OR AMEND ANY CORPORATE DOCUMENTS,

INCLUDING BUT NOT LIMITED TO, THE CERTIFICATE OF INCORPORATION, BYLAWS, CONSENTS, AND RESOLUTIONS. THE BOARD OF DIRECTORS OF THE HOMEOWNERS' ASSOCIATION MAY RECORD ANY CORPORATE DOCUMENT WITH THE COUNTY CLERK OF TULSA COUNTY. THE DEED OF DEDICATION, AS DULY AMENDED, IS SUPERIOR TO AND CONTROLS OVER ANY CORPORATE DOCUMENT CREATED BY THE HOMEOWNERS' ASSOCIATION (WHETHER OR NOT RECORDED). IF AN AMBIGUITY EXISTS AS TO THE MEANING OF ANY WORD, PHRASE, OR PROVISION OF ANY CORPORATE DOCUMENT (WHETHER OR NOT RECORDED), THE WORD, PHRASE OR PROVISION SHALL BE INTERPRETED SO THAT IT IS NOT INCONSISTENT WITH THE DEED OF DEDICATION, AS DULY AMENDED. THE PROVISIONS THE DEED OF DEDICATION, AS DULY AMENDED, PREVAIL OVER ANY INCONSISTENT PROVISIONS IN ANY CORPORATE DOCUMENT (WHETHER OR NOT RECORDED).

8. Except as expressly amended by the terms of this Second Amendment, the remaining terms and provisions of the Declaration remain in full force and effect, notwithstanding provisions of the First Amendment, to which this Second Amendment has revoked.

NOW, THEREFORE, Pursuant to V(C) of the Dedication, as amended, and the history and practice of amendment demonstrated in the First Amendment, the undersigned homeowners, constituting more than 50 percent of the lots of Timberling Hollow, hereby consent to and declare the revocation of the First Amendment and adopt the changes set forth above.

Owner(s) of Lot 3, Block 4, in Timberling Hollow, a Subdivision in the City of Sand Springs, Tulsa County, State of Oklahoma, according to the recorded Plat thereof.

Robert M. Green

Deborah C. Green

Print: ROBERT M. GREEN

DEBORAH C. GREEN

HUSBAND AND WIFE

(Husband and Wife or Single Person).

STATE OF OKLAHOMA       )  
  ) ss.  
COUNTY OF TULSA        )

This instrument was acknowledged before me this 3RD day of DECEMBER, 2011, by:

\_\_\_\_\_

Priscilla M. Whitworth  
Notary Public

My commission number: 08005299

My commission expires: 5-20-2012

