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Vicki E. Rima-Circuit Clerk
Garland County, AR
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Total Fees: \$35.00
Book 3050 Page 363

HOT SPRINGS VILLAGE COVENANTS AND RESTRICTIONS

SECOND AMENDMENT TO DECLARATION

DATED APRIL 14, 2009

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the Declaration for Hot Springs Village (HSV) was originally filed with the Circuit Clerks of Garland and Saline Counties, Arkansas, on April 20, 1970, and the property described therein, as well as the properties added to the Development by Supplemental Declarations, have continued to be governed by said documents; and

WHEREAS, the First Amendment to the Declaration was filed with the Circuit Clerks of Garland and Saline Counties, Arkansas, on April 16, 2003, and became effective on April 20, 2006; and

WHEREAS, the Hot Springs Village Property Owners' Association (HSVPOA), an Arkansas Non-Profit Corporation, has been, and continues to be, the legal entity charged with the ownership, construction, and preservation of the values of the common properties and facilities, as well as the maintenance of all roads, streets, pathways, and all other common facilities and properties within the Development; and

WHEREAS, **ARTICLE XIV, General Provisions, Section 1. Duration.** provides that the Declaration and its covenants and restrictions may be amended provided such amendments are approved by the affirmative vote of two-thirds of those voting at an election called for such purpose, after the establishment of a quorum and provided such amendment is recorded at least one year in advance of the effective date, and written notice of the proposed amendment is sent to every owner at least forty-five (45) days in advance of any action taken; and

WHEREAS, HSVPOA, through its Board of Directors, proposed to its membership a Second Amendment to the Declaration, such vote having been submitted to the membership with an election date of October 3, 2007, and such having received

sufficient votes to constitute a quorum (16,116 of the 32,230 members in good standing on June 15, 2007), and having received the affirmative vote of more than two-thirds of those voting, notice of the amendments having been sent to every owner as required, and this Second Amendment is being filed with the Circuit Clerks of Garland and Saline Counties, Arkansas, more than one (1) year before the effective date of such change (April 20, 2013);

NOW, THEREFORE, HSVPOA hereby declares that all real property described in the Declaration filed on April 20, 1970, as amended effective April 20, 2006, and all Supplemental Declarations adding real property to the Development, as well as all additions as may hereafter be made pursuant to ARTICLE II of the Declaration, as amended, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens contained in the original Declaration, the First Amendment to the Declaration, and this Second Amendment to the Declaration.

1. By an affirmative vote of 79.15% of the owners of Lots and Living Units in Hot Springs Village of those voting in said election (13,182 "For" votes of the 16,655 votes cast), at a meeting of the membership held on October 3, 2007, at Hot Springs Village, the following Amendment to the Declaration was adopted:

ARTICLE VIII
Property Rights of the Common Properties

Section 3. Extent of Members' and Associate Members' Easements.

- (j) the right of the Association by and through its authorized and delegated representatives to impose a reasonable monetary penalty for any single incident infraction as defined in its Protective Covenants and published rules and regulations, such monetary penalty not to exceed the amount of the annual assessment in effect at the time of such infraction.

The right of the Association to impose a reasonable monetary penalty on a daily basis for ongoing infractions as defined in the Association's Protective Covenants and published rules and regulations which are not corrected within thirty (30) days of written notice of the infraction to the property owner. Accumulated monetary penalties for ongoing infractions shall not exceed five times the total of the annual assessment.

Any such monetary penalties shall be the personal obligation of the member committing such infraction, the amount representing the penalty, together with interest, costs, and a reasonable attorney's fee. Any member having been notified of the charging of any monetary penalty shall have the right to contest such by written notification to the Association and received within 30 days of the written notice to the member. The Association, by its Board of Directors or by its authorized and delegated representatives, shall hear any contest of the infraction and the monetary penalty within 60 days. The decision of the Association shall be final.

2. **ARTICLE X, Covenant for Maintenance Assessments, Section 3. Basis and Maximum of Annual Assessments. Section 5. Change in Basis of Maximum of Annual Assessments. and Section 6. Quorum for any Action Authorized Under Sections 4 and 5** are hereby deleted.

3. By an affirmative vote of 67.87% of the owners of Lots and Living Units in Hot Springs Village who voted in said election (11,304 "For" votes of the 16,655 votes cast) at the meeting of the membership held on October 3, 2007, at Hot Springs Village, the following Amendments to the Declaration were adopted:

ARTICLE X
Covenant for Maintenance Assessments

Section 3. Basis and Maximum of Annual Assessments. From and after January 1, 2014, the annual assessment may be increased each year above the annual assessment for the previous year by a two-thirds (2/3) majority vote of the Board of Directors of the Association, provided, however, that such increase may be no greater than the consumer price index for the twelve month period ending June 30 of the preceding year using the "Consumer Price Index, South Region All Items" as promulgated by the Bureau of Labor Statistics of the U.S. Department of Labor or, if such is not available, any other reliable governmental or other non-partisan publication evaluating similar information. Unless the annual assessment shall be increased as aforesaid, it shall remain at the rate prevailing for the previous year.

Section 5. Increase in Annual Assessment With Vote of Members. The annual assessment may be increased prospectively from the amounts set forth in any year without limitation on the amount of such increase by a majority vote of each class of members voting in person or by proxy at a meeting duly called for such purpose.

Section 6. Notice and Quorum for Any Action of Members Authorized Under Sections 4 and 5. Written notice of any meeting of the membership called for the purpose of taking any action authorized under Sections 4 and 5 of Article X hereof shall be sent to all members in good standing not less than 30 days in advance of the meeting. At the first such called meeting the presence of members in good standing or of proxies entitled to cast a majority of all votes of each class shall constitute a quorum. If the required quorum is not present at any meeting another meeting may be called subject to the same notice requirement and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 90 days following the preceding meeting.

4. A copy of the **Second Amendment** to the Declaration was provided to every owner of a Lot or Living Unit more than forty-five (45) days in advance of the recording of this document.

5. This **Second Amendment** to the Declaration shall be effective on April 20, 2013.

6. All other terms, covenants, restrictions and requirements of the Declaration filed and effective on April 20, 1970, and the First Amendment to the Declaration filed on April 16, 2003, and effective on April 20, 2006, shall remain in full force and effect, except as amended herein.

IN WITNESS WHEREOF, Hot Springs Village Property Owners' Association, an Arkansas Non-Profit Corporation, by its duly elected and acting President and Secretary, have caused this Second Amendment to Declaration to be executed in multiple counterparts, any one of which may be deemed an original, this 14th day of April, 2009.

HOT SPRINGS VILLAGE PROPERTY
OWNERS' ASSOCIATION

By: Robert M. Shoemaker
ROBERT M. SHOEMAKER, President

ATTEST:

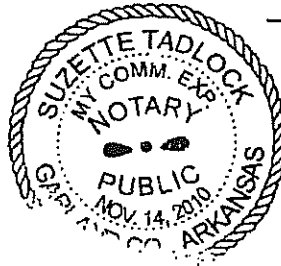
Dave Johnston
DAVE JOHNSTON, Secretary

STATE OF ARKANSAS)
) SS
COUNTY OF GARLAND)

ACKNOWLEDGMENT

BE IT REMEMBERED, that before me, the undersigned, a Notary Public duly commissioned and acting within and for the County and State aforesaid, personally appeared ROBERT M. SHOEMAKER and DAVE JOHNSTON, to me well known as the President and Secretary of Hot Springs Village Property Owners' Association, respectively, whose names are subscribed to the above and foregoing Second Amendment to Declaration, and they acknowledged to me that they had executed same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and official seal as such Notary Public this 14th day of April, 2009.



Suzette Tadlock
NOTARY PUBLIC
MY COMMISSION EXPIRES:
11-14-2010

Garland County, AR
I certify this instrument was
filed on 04/14/2009 11:36AM
and recorded in DEED Book
3050 at pages 0863 - 0867
Vicki E. Rind-Circuit Clerk

Vicki E. Rind