

Deed Book 55425 Pg 73
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Real Estate Transfer Tax \$0.00
Cathelene Robinson
Clerk of Superior Court
Fulton County, Georgia

[SPACE ABOVE RESERVED FOR RECORDING DATA]

After Recording, Return To:
Robert S. Stein
Lazega & Johanson LLC
3520 Piedmont Road, N.E.
Suite 415
Atlanta, Georgia 30303
(404) 350-1152

Cross Reference:

Deed Book 13736
Page 197

STATE OF GEORGIA)
COUNTY OF FULTON)

**SECOND AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
NESBIT LAKES HOMEOWNERS ASSOCIATION, INC.**

**THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS** is made this _____ day of _____,
2015.

WHEREAS, on or about September 29, 1990, that certain Declaration of Covenants, Conditions and Restrictions for Nesbit Lakes was created by Brooks Horton Development Corporation of Georgia, Inc., a Georgia corporation (hereinafter, "Developer"), which Declaration was recorded in Deed Book 13736, Page 193, *et seq.* of the Fulton County, Georgia records (hereinafter, together with all amendments thereto, the "Declaration");

WHEREAS, the Developer no longer has the right to add additional property to the Declaration and no longer owns any Lot or Dwelling primarily for the purpose of sale, and thus the Developer's consent to any amendment to the Declaration is no longer necessary;

WHEREAS, this Amendment does not materially or adversely affect the security, title or interest of any mortgagee and, as such, the approval of mortgagees is not required;

WHEREAS, the highest voting standard for any item requiring a vote permitted by the Association's current Declaration of Covenants, Conditions and Restrictions is at least a two-thirds (2/3) of the total votes of the Association;

WHEREAS, Owners holding at least two-thirds (2/3) of the total votes of the Association have approved this amendment; and

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. **Article II of the Declaration is hereby amended by adding thereto a new section at the end of Article II which shall read as follows:**

2.05 Submission of Seydel Property. The Association, acting through the Board of Directors shall have the unilateral right, privilege, and option, from time to time to authorize the submission/annexation of all or portions of the Seydel Property (defined in Exhibit "A" attached hereto) to the provisions of this Declaration and the jurisdiction of the Association such that the Lots and all or portions of the common areas therein are subject to this Declaration and the Lot Owners shall be equal members with the current Association members and subject to all provisions of the Declaration (as it may be amended) including but not limited to use restrictions, assessments/dues/fees/fines etc.; provided the Association may, in its discretion, as a part of such submission/annexation provide for certain modifications to the Declaration as it applies to the Seydel Property including but not limited to, that the developer of the Seydel Property may have architectural authority as to that property until an agreed upon turnover date, that there are different use or other restrictions that may apply to Lot Owners in the Seydel Property versus the current Development and that certain provisions would require agreement by the developer of the Seydel Property to change until an agreed upon turnover date.

All initial Lot Owners/members within the Seydel Property, upon the initial sale to such Lot Owner, would be required to pay a \$1200 initiation fee to the Association at such initial closing. This is in addition to such assessments and changes other sums otherwise due from all Lot Owners.

Such submission/annexation shall be accomplished by filing one or more Supplemental Declarations annexing such property in the public records of Fulton County. Such Supplemental Declaration shall not require the consent of members, but shall require the approval of the Association and the owner of such property. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

2. **Article III is amended by the addition of the following as Section 3.14:**

Section 3.14. Georgia Property Owners' Association Act. The Common Areas and the Development submitted hereto constitute a residential property owners development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie, 1982), as such Act may be amended from time to time ("Act") and the Association, acting through the Board, may exercise the actions set forth in the Act.

3. **Article IX of the Declaration is amended by the addition of the following:**

9.12 Georgia POA Act Related Provisions. Notwithstanding anything herein to the contrary, the lien provided for herein shall have priority as provided in the Act, all assessments and charges levied against a Lot and its Owner, together with interest, late charges, costs and reasonable attorneys' fees actually incurred shall be in the maximum amounts permitted under the Act, such amounts shall be a charge and a continuing lien against such Lot and the personal

obligation of the person who is the Owner of the Lot on the due date of the assessment or charge and each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance of the Lot. The Association may record a notice of such lien in the Fulton County, Georgia land records evidencing the lien created under the Act and this Declaration.

4. Article XII, Section 12.05 is deleted and replaced with the following:

12.05 The covenants and restrictions of this Declaration shall run with and bind the real property in the Development perpetually to the extent provided in the Act.

IN WITNESS WHEREOF, the President of the Association and such other officer signing below states unequivocally that the agreement of the required parties was lawfully obtained as of the day and year first above written and any required notices were duly given.

SWORN TO AND SUBSCRIBED BEFORE ME this 24th day of June, 2015.

THE NESBIT LAKES HOMEOWNERS ASSOCIATION, INC.

Kera Williams
Witness Notary

By: Raymond Wright
Its: President

X Jawani Williams
Notary Public
witness
[NOTARY SEAL]


Attest: [Signature]
Its: Board Member

[CORPORATE SEAL]



My Commission Expires:
April 10, 2016

Exhibit "A"
LEGAL DESCRIPTION
Tract 1

All that tract or parcel of land lying and being in Land Lots 732, 764, 765, 786 & 787 of the 1st District, 2nd Section, City of Roswell, Fulton County, Georgia and being more particularly described as follows:

BEGINNING at a 3/4" rod found at the corner common to Land Lots 763, 764, 787 and 788; THENCE along the northerly line of Land Lot 787 South 88 degrees 22 minutes 49 seconds East a distance of 1020.60 feet to a 1.5" open top pipe found; THENCE leaving said Land Lot Line South 00 degrees 42 minutes 28 seconds West a distance of 801.85 feet to a 1.5" open top pipe found; THENCE along a curve to the left having a radius of 505.00 feet and a length of 685.59 feet, said curve having a chord bearing of South 49 degrees 26 minutes 10 seconds West and a chord distance of 634.14 feet to an Iron pin set; THENCE North 87 degrees 21 minutes 47 seconds West a distance of 90.00 feet to a 1/2" rebar found; THENCE South 23 degrees 28 minutes 16 seconds West a distance of 210.00 feet to a point; THENCE South 76 degrees 29 minutes 27 seconds West a distance of 435.00 feet to a 1/2" rebar found; THENCE North 76 degrees 28 minutes 46 seconds West a distance of 589.91 feet to a 1/2" rebar found; THENCE South 53 degrees 32 minutes 15 seconds West a distance of 505.00 feet to a 1/2" rebar found; THENCE North 42 degrees 33 minutes 00 seconds West a distance of 330.00 feet to a 1/2" rebar found; THENCE North 46 degrees 38 minutes 50 seconds East a distance of 184.59 feet to 1/2" rebar found; THENCE North 17 degrees 29 minutes 39 seconds East a distance of 289.95 feet to a 1/2" rebar found; THENCE North 64 degrees 26 minutes 41 seconds East a distance of 240.45 feet to a 1/2" rebar found; THENCE North 37 degrees 29 minutes 03 seconds East a distance of 164.91 feet to a 1/2" rebar found; THENCE North 14 degrees 27 minutes 44 seconds East a distance of 174.96 feet to a 1/2" rebar found; THENCE North 08 degrees 30 minutes 54 seconds West a distance of 169.91 feet to a 1/2" rebar found; THENCE North 27 degrees 30 minutes 04 seconds West a distance of 255.05 feet to a 1/2" rebar found; THENCE North 01 degrees 30 minutes 11 seconds West a distance of 275.07 feet to a 1/2" rebar found on the northerly line of Land Lot 264; THENCE along said Land Lot Line South 89 degrees 38 minutes 57 seconds East a distance of 844.54 feet to a point; said point being the **TRUE POINT OF BEGINNING**.

Said tract contains 58.429 acres.

WR
CW
JW