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Deed Book 14439 Pg 6359  
Filed and Recorded Jan-16-2007 11:40am  
2007-0008481



Jay C. Stephenson  
Clerk of Superior Court Cobb Cty. Ga.

RETURN TO:  
ANSLEE M. FOSTER  
RAMSAY TITLE GROUP, LLC  
6400 ATLANTIC BLVD., SUITE 170  
NORCROSS, GA 30071  
(770) 447-0976

2-13715

Cross reference to:  
Deed Book 3095, Page 357  
Cobb County, Georgia records

**FOURTH AMENDMENT TO DECLARATION OF  
EASEMENTS, COVENANTS AND RESTRICTIONS**

THIS FOURTH AMENDMENT to Declaration of Easements, Covenants and Restrictions (this "Fourth Amendment") is made and entered into this 10<sup>th</sup> day of January, 2007, by and between **BUGG INVESTMENTS, LLC**, a Georgia limited liability company ("Bugg Investments") and **BUGG PROPERTIES, INC.**, a Georgia corporation ("Bugg Properties"). Bugg Investments and Bugg Properties are hereinafter collectively referred to as the "Owners."

WITNESSETH:

WHEREAS, the Owners are all of the owners of the Entire Premises, as that term is defined in that certain Declaration of Easements, Covenants and Restrictions, dated April 11, 1984, and recorded in Deed Book 3095, Page 357, Cobb County, Georgia records, as modified by Amendment thereto, dated December 4, 1984, recorded in Deed Book 3392, Page 44, aforesaid records, and as further modified by that certain Second Amendment to Declaration of Easements, Covenants and Restrictions dated August 13, 1987, recorded in Deed Book 4615, Page 280, aforesaid records, and as further amended by that certain Third Amendment to Declaration of Easements, Covenants and Restrictions dated November 13, 1997, recorded in Deed Book 10910, Page 159, aforesaid records, and as further amended by that certain Amended and Restated Third Amendment to Declaration of Easements, Covenants and Restrictions dated January 8, 2000, recorded in Deed Book 13235, Page 115, aforesaid records (as so amended, collectively the "Declaration"); and

WHEREAS, the Owners desire to amend the Declaration for the purposes set forth herein.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owners hereby covenant and agree that the Declaration shall be amended and is hereby amended as set forth below.

1. Capitalized terms and other defined items used herein but not defined herein shall have the meanings ascribed to them in the Declaration. The Owners hereby ratify and agree that, as of the date hereof, Bugg Investments is the Declarant under the Declaration.

2. The first sentence of Section 2B. of the Declaration is hereby deleted in its entirety and the following new sentence is hereby inserted in lieu thereof:

“For purposes of this Declaration, the term “Common Area Expenses” is defined to mean all cost and expense incurred by Declarant or any other individual Owner acting pursuant to the provisions of Section 10B. and/or Section 11 (i) in maintaining the Common Area in good condition and repair; and (ii) for taxes (including, without limitation, ad valorem property taxes), premiums for commercial general liability insurance policies, and costs and expenses incurred in connection with trash removal, lighting, cleaning, snow and ice removal, painting, landscaping, striping and draining relating to the Common Area.”

3. Section 10B. of the Declaration is hereby deleted in its entirety and the following is hereby inserted in lieu thereof:

“Maintenance of Common Areas. The responsibility of management, operation and maintenance of the Common Areas shall be vested in a management committee (the “Committee”) composed of the Owners of the Sites. Each Site shall be deemed to have one Owner for purposes of the Committee and each Site shall have one vote. The Committee shall from time to time appoint a manager (the “Manager”) chosen and agreed upon by the Owners of at least two of the three Sites to perform management, operation and maintenance functions to the Common Areas. During all such periods as the three Owners of the three Sites are unaffiliated parties, all decisions of the Committee to undertake an item of maintenance shall be approved by the affirmative vote of the Owners of at least two of the three Sites; provided, however, where expenditures are to be made on capital items, except in emergencies, the Owners of all three Sites shall receive written notice at least one year in advance of the expenditure of funds (provided, the Owners may by unanimous agreement waive this notice requirement). During all such periods as any two or more of the three Owners of the three Sites are affiliated parties, all decisions of the Committee to undertake an item of maintenance shall be approved by the affirmative vote of all of the Owners of the three Sites; provided, however, the Manager shall have the right to pay all costs and incur expenses relating to routine landscaping, water, trash removal and electricity, and to pay all taxes and assessments in connection with the Common Areas, without the approval of all Owners and without any limitation or cap on the amounts expended in paying such costs, expenses, taxes and assessments; and provided further, the Manager shall have the right to expend up to \$15,000.00 per year on non-capital items (other than taxes, routine landscaping, water, trash removal and electricity) in managing, operating and maintaining the Common Areas, without first obtaining the approval of all Owners. In the event that the unanimous agreement of the Owners as may be required pursuant to the immediately preceding sentence cannot be achieved with respect to a proposed item of maintenance, an independent arbitrator shall be selected by the Committee to help the Owners reach agreement. The cost of such arbitration shall be a Common Area Expense. Owners will meet semi-annually or as needed to approve expenditures which are required to be approved. Except as specifically provided herein to the contrary, the Manager shall maintain and keep in current state of repair all portions of the Common Area in accordance with the Committee’s decisions. The Manager’s responsibilities with respect to the Common Area shall be deemed to include the maintenance, repair, and replacement of (i) all roads, driveways, parking areas, walkways, sidewalks and other improvements located within the Common Areas, (ii) such utility lines, pipes, plumbing, wires, conduits, and systems which are located on, under or across the Common Area, and (iii) all planting areas, lawns, trees, shrubs, hedges, grass, and other landscaped areas located upon the Common Area. No Owner shall be liable for injury or damage to any other Owner (i) caused by the elements or by any other Owner or any other person, (ii) resulting from any rain, snow, or ice which may leak or flow from or be located upon any portion of the Common Area, or (iii) caused by any pipe, plumbing, drain, conduit, appliance, equipment, or utility line or facility located on or under the Common

Area. No Owner shall be liable to any other Owner for loss or damage, by theft or otherwise, of any property of any other Owner which may be stored in or upon any portion of the Common Area. No Owner shall have the right to store any property on the Common Area. No abatement of Common Area Expenses shall be claimed or allowed by reason of (i) any alleged failure of the Manager or any Owner to take some action or perform some function required to be taken or performed by the Manager or Owner under this Declaration, (ii) inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Manager or Owner, or (iii) any action taken by the Manager or Owner to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority. The Manager or an Owner shall furnish the Owners with an estimate of Common Area Expenses and to whom expenses are to be paid on an annual basis or when requested by any individual Owner. The Manager or an Owner shall furnish Owners with a statement of Common Area Expenses and to whom paid on an annual basis. All books of the Manager and of the Owners concerning Common Area Expenses shall be made available and open to all of the Owners during normal business hours. Each Owner agrees to pay its share of Common Area Expenses within ten (10) days after written demand by Manager or Declarant, as the case may be.”

4. The first sentence of Section 11A. of the Declaration is hereby deleted in its entirety and the following new sentence is hereby inserted in lieu thereof:

“Declarant shall obtain and continue to maintain on the Common Areas comprehensive commercial general liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) or an amount agreed upon by all of the Owners during such periods as two or more of the Owners are affiliated parties and by the Owners of at least two of the three Sites during such periods as none of the Owners are affiliated with each other, in respect of injury or death to any number of persons arising out of any one occurrence and with property damage coverage in an amount not less than One Hundred Thousand Dollars (\$100,000.00) or an amount agreed upon by all of the Owners during such periods as two or more of the Owners are affiliated parties and by the Owners of at least two of the three Sites during such periods as none of the Owners are affiliated with each other, arising out of a single occurrence or in such greater amounts as shall be agreed upon by all of the Owners during such periods as two or more of the Owners are affiliated parties and by the Owners of at least two of the three Sites during such periods as none of the Owners are affiliated with each other.”

5. The final sentence of Section 11A. of the Declaration is hereby deleted in its entirety and the following new sentence is hereby inserted in lieu thereof:

“If agreement upon the type or amount of insurance to be maintained with respect to the Common Area cannot be reached by Owners as required under this Section 11A, the matter shall be submitted to arbitration presided over by an independent arbitrator selected by the Committee.”

6. Section 19 of the Declaration is hereby deleted in its entirety and the following is hereby inserted in lieu thereof:

“Termination of Declarant’s Obligations. For purposes of this Declaration, the term “Declarant Resignation Event” is defined to mean the occurrence of any of the following events:

(a) Declarant ceases to exist and has not made an assignment of all of the rights, reservations, title, interest, privileges, benefits, options, power and authority of the Declarant under this Declaration (hereinafter termed the “Entire Declarant Interest”);

(b) Declarant or an assignee of Entire Declarant Interest files a written notice in the recording office where this Declaration is recorded that it has relinquished the Entire Declarant Interest; or

(c) Declarant ceases to own any interest in any of Site A, Site B or Site C and any assignee of the Entire Declarant Interest cease to own any interest in any of Site A, Site B or Site C.

Upon the occurrence of any Declarant Resignation Event: (i) Declarant shall be relieved of all of its obligations under this Declaration; and (ii) the Owners of the Sites shall immediately organize a property owners' association (hereinafter termed the "Association"), and, upon the organization of the Association, the Association shall be deemed to have assumed all of the obligations of the Declarant arising after the organization of the Association. The Association shall have as its members all of the Owners of the Sites. The Owner of Site A shall have one vote in the Association; the Owner of Site B shall have one vote in the Association; and the Owner of Site C shall have one vote in the Association."

7. Section 14 of the Declaration is hereby amended by adding the following at the end thereof: "; provided, however, for so long as Bugg Investments, LLC is the Declarant hereunder, this Declaration may be amended or otherwise modified, by a writing signed by Declarant and recorded in the real property records of Cobb County, Georgia."

8. The following is hereby added as a new Section 20(g) to the Declaration:

"(g) The rights and obligations of each Owner under this Declaration shall terminate at the time that said Owner ceases to own an interest in Site A, Site B or Site C. No such termination shall affect any proportion of any Owner's obligations which accrued prior to such termination and which have not been fulfilled at the time of termination."

9. The following is hereby added as a new Section 20(h) to the Declaration:

"(h) In no event shall Declarant be liable or responsible for damages or in any other manner whatsoever to any Owner of a Site, its tenants, or any other person or entity by reason of mistake of judgment, negligence or nonfeasance or any other reason whatsoever arising out of, by reason of, or in connection with Declarant's approval, disapproval or deemed disapproval of, or inaction with respect to, any plans and specifications. The failure of Declarant to enforce this Declaration in the event of a violation or breach hereof on one occasion shall in no event be deemed to be a waiver of the right to do so for subsequent like violations or breaches, or of the right to enforce this Declaration as to other violations or breaches. In no event shall Declarant be liable for any such failure to enforce."

10. The following is hereby added as a new Section 20(i) to the Declaration:

"(i) "Declarant Interest" as used herein means the Declarant Powers, together with all of the right, title, interest, privileges, benefits and options of the "Declarant" under this Declaration. "Declarant Powers" as used herein means all of the rights, reservations, power and authority of the "Declarant" pursuant to this Declaration. "Declarant Obligations" as used herein means all of the duties, obligations, liabilities and responsibilities of the "Declarant" under this Declaration. The Declarant Interest may be assigned by Declarant, in whole or in part, to any person or entity that agrees, to the extent of such assignment, to assume the Declarant Obligations arising from and after the date of such assignment. To be effective, such assignment must be in writing and in recordable form and specifically refer to the Declarant Interest, or portion thereof, which is being assigned. Upon acceptance of such assignment, such assignee shall, to the extent of such assignment, assume the Declarant Obligations arising from and after the date of such assignment and shall have the Declarant Powers. Upon such assignment, and to the extent thereof, the assigning Declarant shall be relieved from all Declarant Obligations arising from and after the date of such assignment. The term "Declarant", as used herein, includes all such assignees and their heirs, successors and assigns. Notwithstanding anything to the contrary set forth herein, the mere

conveyance or transfer of Site ownership of or any other interest or estate in land within the Entire Premises by Declarant to any person or entity, whether by deed, lease or other instrument, shall in no way convey all or any portion of the Declarant Interest.”

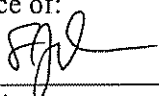

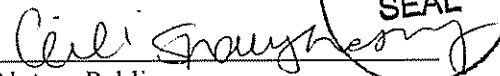
11. The following is hereby added as a new Section 20(j) to the Declaration:

“(j) The provisions of this Declaration shall run with and bind title to the Entire Premises and shall be binding upon and inure to the benefit of Declarant and all Owners and mortgagees, and their respective heirs, executors, legal representatives, successors, and assigns, and shall be and remain in effect perpetually to the extent provided by law; provided, however, that, so long as Georgia law limits the period during which covenants restricting lands to certain uses may run, any provision of this Declaration affected by any such limitation shall run with and bind the land for the maximum period permitted by Georgia law from the date this Declaration is filed for record in the Office of the Clerk of Superior Court of Cobb County, Georgia (including any extensions of such maximum period that may be enacted after such filing), after which time this Declaration shall be automatically extended and renewed for successive periods of ten (10) years each unless there has been duly recorded an instrument in writing signed by Declarant (until the occurrence of a Declarant Resignation Event) and all Owners, agreeing to terminate this Declaration as of a termination date specified in such instrument, and all Owners have been given notice of such recording; provided, however, that no such agreement to terminate shall be effective unless made and recorded at least three (3) years in advance of the effective date of such termination. Time is of the essence of this Declaration.”

12. Owners hereby reaffirm and ratify all of the provisions of the Declaration, as amended hereby.

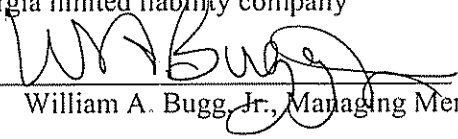
IN WITNESS WHEREOF, the parties have caused this Fourth Amendment to be signed and sealed as of the date first above written.

Signed, sealed and delivered  
in the presence of:

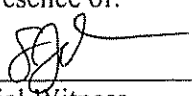
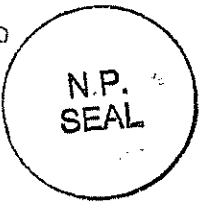
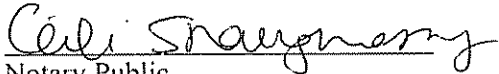
  
\_\_\_\_\_  
Unofficial Witness  
  
  
\_\_\_\_\_  
Notary Public  
My commission expires: 5/1/2010

[Notarial Seal]

**Bugg Investments, LLC,**  
a Georgia limited liability company

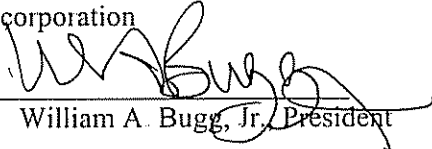
By:   
\_\_\_\_\_  
William A. Bugg, Jr., Managing Member  
[SEAL]

Signed, sealed and delivered  
in the presence of:

  
\_\_\_\_\_  
Unofficial Witness  
  
  
\_\_\_\_\_  
Notary Public  
My commission expires: 5/1/2010

[Notarial Seal]

**Bugg Properties, Inc.,**  
a Georgia corporation

By:   
\_\_\_\_\_  
William A. Bugg, Jr., President  
[SEAL]