

SPACE ABOVE RESERVED FOR RECORDING DATA

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Coulter & Sierra, LLC  
2800 Century Parkway, Suite 275  
Atlanta, GA 30345  
Attn.: KMK

STATE OF GEORGIA      Cross Reference: Deed Book:      14100 COUNTY OF COBB  
Page:      588

**SECOND AMENDMENT TO THE DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR WESTWOOD TERRACE**

THIS SECOND AMENDMENT TO THE DECLARATION OF COVENANTS AND RESTRICTIONS FOR WESTWOOD TERRACE (hereinafter referred to as the "Second Amendment") is made as of the 19<sup>th</sup> day of January, 2019 by WESTWOOD TERRACE TOWNHOME ASSOCIATION, INC., a Georgia nonprofit corporation (hereinafter referred to as the "Association").

**WITNESSETH:**

**WHEREAS**, Pulte Home Corporation, a Michigan corporation, as Declarant, signed and recorded that certain Declaration of Covenants and Restrictions for Westwood Terrace on August 24, 2004 in Deed Book 14031, Page 3148, et seq., of the Cobb County, Georgia land records and re-recorded on January 18, 2005 in Deed Book 14100, Page 588, et seq., aforesaid land records (hereinafter, as may be amended and/or supplemented from time to time, the "Declaration"); and

**WHEREAS**, the Association is a nonprofit corporation organized under the Georgia Nonprofit Corporation Code to be the Association named in the Declaration to have the power and authority set forth therein; and

**WHEREAS**, pursuant Article X of the Declaration, the Declaration may be amended upon the approval of those members of the Association who own, in the aggregate, no-fewer than sixty-seven percent (67%) of the Townhomes not owned by the Declarant and the Declarant's approval, if the Declarant owns any Townhome or any other portion of the Overall Property; and

**WHEREAS**, members of the Association who own, in the aggregate, no-fewer than sixty-seven percent (67%) of the Townhomes not owned by the Declarant agreed to amend the Declaration as provided herein; and

**WHEREAS**, attached hereto as Exhibit "A" and incorporated herein by reference is the sworn statement of the Secretary of the Association, which sworn statement certifies that the consent of those members of the Association who own, in the aggregate, no-fewer than sixty-seven percent (67%) of the Townhomes not owned by the Declarant was lawfully obtained; and

**WHEREAS**, the Declarant no longer owns any Townhome or other portion of the Overall Property.

**NOW, THEREFORE**, the undersigned hereby adopt this Second Amendment to the Declaration of Covenants and Restrictions for Westwood Terrace, hereby declaring that all the property now or hereafter subject to the Declaration shall be held, conveyed, encumbered, used, occupied and improved subject to the Declaration, amended as follows:

1.

Article VII, Section 6 of the Declaration is hereby amended by deleting that Section in its entirety and substituting the following new Section 6 therefor:

Section 6. **Leases**. In order to carry out the purpose for which Westwood Terrace was formed by preserving the character of the Community as a homogenous residential community of predominantly owner-occupied homes and by preventing the Community from assuming the character of a renter-occupied apartment complex, leasing of Townhomes shall be governed by the restrictions imposed by this Section. The Board of Directors shall have authority to make and enforce reasonable rules and regulations in order to enforce this Section, including the right to impose fines constituting a lien upon any Townhome sold or leased as provided herein.

(a) **Definitions.**

- (i) **"Authorized Corporate Occupant"** shall mean the occupant designated by a Townhome owner who is a corporation, Limited Liability Company, partnership or trust or other legal entity not being a natural person. If the record title owner of a Townhome is a corporation, Limited Liability Company, partnership or trust or other legal entity not being a natural person, the owner shall designate in writing to the Board of Directors the name(s) of the Authorized Corporate Occupant, who will occupy the Townhome. The name of each Authorized Corporate Occupant shall be designated in writing to the Board of Directors and may not be changed more frequently than once every twelve (12) months without the Board's written consent.

A person's designation as an Authorized Corporate Occupant shall terminate automatically upon the termination of such person's relationship with the entity holding record title to the Townhome. Occupancy of an entity-owned Townhome by any person that does not qualify as an Authorized Corporate Occupant hereunder shall be unauthorized and shall be deemed to constitute leasing under this Section.

- (ii) **"Effective Date"** shall mean the date that this Second Amendment is recorded in the Cobb County, Georgia land records.
- (iii) **"Grandfathered Owner"** shall mean any owner who lawfully owns his or her Townhome on the Effective Date. Grandfathering hereunder shall continue only until the earlier of:
  - (A) the date Grandfathered Owner conveys title to the Grandfathered Townhome to any other person (other than the owner's spouse or former spouse); or
  - (B) the date that the Grandfathered Owner is shown on the books and records of the Association as being more than thirty (30) days delinquent in the payment of any assessments or other charges owed to the Association hereunder; or
- (iv) **"Grandfathered Townhome"** shall mean the Townhome owned by a grandfathered Owner on the Effective Date hereof.
- (v) **"Leasing"** shall mean the regular, exclusive occupancy of a Townhome by any person(s) other than the owner for which the owner received any consideration or benefit, including, but not limited to, a fee, rent, gratuity, or emolument. For purposes hereof the following shall not constitute leasing: (i) occupancy by a roommate of an owner; (ii) occupancy by an owner's parent, grandparent, spouse or former spouse, sibling or child of an owner, which relationship shall be demonstrated to the Board on request by providing a copy of a birth certificate or similar document satisfactory to the Board; (iii) occupancy by one or more wards if the Townhome is owned by their legal guardian; (iv) occupancy by one or more beneficiaries of a trust if the Townhome is owned in trust by the trustee; or (v) occupancy by an Authorized Corporate Occupant. For purposes hereof, occupancy by a roommate of an owner who occupies a Townhome continuously and at all times resides in and occupies the Townhome as such owner's primary residence shall not constitute Leasing hereunder; however, occupancy of any Townhome by any roommate of an owner, where said owner does not continuously and at all times reside in and occupy a Townhome as such owner's primary residence, shall be deemed to constitute Leasing hereunder and said occupancy/tenancy shall be subjected to all of the rules, restrictions and regulations set forth herein. Moreover, for purposes hereof, occupancy by any tenant, renter, lessee, guest, invitee or other similar person who in any way compensates any owner for any right to enter or occupy a Townhome for any period of time, and who is not otherwise qualified as a roommate hereunder, shall be deemed to constitute Leasing hereunder and same shall be governed by and subject to all of the rules, restrictions and regulations set forth herein. By way of

example only, the immediately preceding standard shall include any occupancy under any Airbnb, time share, vacation rental, Vacation Rental By Owner ("VRBO"), Home Away, Craigslist or other similar arrangement whereby any person is granted, by owner for compensation in any form, a right to enter and/or occupy a Townhome for any period of time shorter in duration than is required hereunder; the listing hereinabove shall not be considered exhaustive or exclusive with regard what constitutes Leasing hereunder, and same shall hereinafter be referred to as "Short-Term Leasing." Lastly, a person occupying a Townhome only may qualify to be an Authorized Corporate Occupant if no rent or consideration is paid or provided to the Townhome owner by or for the occupant. Additionally, a Townhome may be considered leased hereunder even if no rent is paid to the owner if the occupant does not constitute one of the occupants exempted from leasing above. The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and Bylaws, in order to enforce the provisions of this Section.

- (vi) **"Leasing Cap"** shall mean the maximum total number of outstanding Leasing Permits plus Grandfathered *leased* Townhomes, but excluding Hardship Leasing Permits that are permitted. The Leasing Cap shall be sixteen (16) Townhomes within the Community.

(b) **Restrictions on Leasing of Townhomes.**

- (i) **Authorized Leasing.** Owners may lease their Townhomes only if: (1) the owner is a Grandfathered Owner; (2) the owner is not a Grandfathered Owner but has received a Leasing Permit from the Board as provided below; (3) the Owner is not a Grandfathered Owner but has received a Hardship Leasing Permit from the Board as provided below; or (4) the Owner or lessee is the Association. The Leasing Permit and Hardship Leasing Permit are not intended as a way for the Association to approve or disapprove a particular tenant or occupant, but a method to ensure that all leasing of Townhomes is strictly in compliance with the conditions and requirements specified in this Section. These conditions and requirements are of utmost importance in maintaining the high quality of the Community.
- (ii) **Leasing Permits.** If any other owner requests a Leasing Permit and complies with the conditions and requirements of this Section, the Board of Directors shall issue a Leasing Permit to the owner within fifteen (15) days of receipt of all documentation, fees, or other information as may be required herein, if the number of outstanding Leasing Permits plus Grandfathered Townhomes is less than sixteen (16) total. Owners who have been denied a Leasing Permit because the Leasing Cap is satisfied shall be placed on a waiting list to be issued such a Permit, if the owner requests in writing, when the above conditions have been satisfied. The issuance of a Hardship Leasing Permit to an owner shall not cause the owner to be removed from the waiting list for a Leasing Permit. The Board may refuse to issue any Leasing Permit or Hardship Leasing Permit if the owner is shown on the Association's books and records to be delinquent in any assessment or charge or if the owner is in violation of the Declaration, Bylaws or any Association rule and regulation. Leasing Permits shall be valid only as to a

specific owner and Townhome, and they shall not be transferable between either owners or Townhomes.

- (iii) **Hardship Leasing Permits.** If an owner wishes to lease and does not satisfy the conditions and requirements for leasing under this Section, and the inability to lease will result in an undue hardship to the owner, then the owner may apply to the Board for a Hardship Leasing Permit, for a term not to exceed one (1) year or as otherwise approved by the Board. The Board has sole discretion whether to grant a Hardship Leasing Permit, and the existence of a hardship does not guaranty that an owner is entitled to or will receive a Hardship Leasing Permit, as such Permit is discretionary. The Board shall have the authority to issue or deny requests for Hardship Leasing Permits in its discretion after considering the following factors: (1) the nature, degree, and likely duration of the hardship; (2) the number of Hardship Leasing Permits which have been issued to other Owners; (3) the owner's involvement in creating the hardship and ability to cure the hardship; and (4) whether previous Hardship Leasing Permits have been issued to the requesting owner.
- (iv) **Expiration and Revocation of Permits and Grandfathering Status.** Leasing Permits and Hardship Leasing Permits are automatically revoked upon the sale or transfer of the Townhome to a third party (excluding sales or transfers to an owner's spouse or former spouse). Leasing Permits and Hardship Permits also expire if the Townhome is not leased as provided herein within ninety (90) days of the issuance of the Leasing Permit or Hardship Permit, or if the owner fails to maintain a lease for more than ninety (90) consecutive days at any point after a Permit is issued. The Board also may revoke any Leasing Permit or Hardship Leasing Permit if the owner is shown on the Association's books and records to be more than thirty (30) days past due in any assessment or charge or if the owner and/or the Townhome occupant or any guest of the owner or occupant violates the Declaration, Bylaws, rules and regulations of the Association or any other applicable laws or ordinances. Grandfathering status is automatically revoked if the Grandfathered Owner conveys title to the Townhome to any person other than the owner's spouse or former spouse. A revocation or expiration of the Permit or Grandfathering status serves as an immediate revocation of the lease agreement in place at the time.
- (v) **General Leasing Provisions.** Except for roommates of an owner as provided above, Townhomes may be leased only in their entirety pursuant to a single lease. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. There shall be no subleasing of Townhomes or assignment of leases without prior written Board approval. All leases must be for an initial term of at least one (1) year, except with Board approval. Transient tenants or occupants are not permitted in Townhomes.

When requesting a Leasing Permit or a Hardship Leasing Permit, an owner shall provide the following:

- (1) a copy of the proposed lease;
  - (2) the names, phone numbers, email addresses, work locations and work phone numbers of all of the proposed occupants of the Townhome;
  - (3) the owner's Townhome address, and the owner's phone number, email address, work location, work phone number and physical street address to be occupied by the owner when the Townhome is leased;
  - (4) written and signed confirmation of the provision of all governing documents, including, but not limited to, the Declaration, Bylaws, and all rules and regulations to the tenant and all Townhome occupants; and
  - (5) such other information required by the Board. The owner of a leased Townhome, including a Grandfathered Owner, shall provide the Board with a copy of the executed lease within seven (7) days after executing a lease for the Townhome and within seven (7) days of request by the Board during the lease term. If any of the information regarding the occupant required above, or other information regarding occupancy of the Townhome, changes during the term of any leasing of the Townhome, the owner and occupant shall update and notify the Board in writing of such changes within thirty (30) days of the date of such change. **If an owner fails to provide the Association a copy of the lease and notice of leasing as provided herein, or an owner otherwise leases a Townhome in violation of this Section, the Association may fine the owner an initial fine of \$250.00, plus additional daily fines for continued violation of these provisions.**
- (vi) Mortgagee Exemption. The provisions of this Section shall not apply to any mortgagee in possession of a Townhome through foreclosure or otherwise as a result of the exercise of any rights arising out of a first priority mortgage on a Townhome.

## 2.

Unless otherwise defined herein, the words used in this Second Amendment shall have the same meaning as set forth in the Declaration.

## 3.

This Second Amendment shall be effective only upon being recorded in the records of the Clerk of Superior Court of Cobb County, Georgia.

## 4.

Except as herein modified, the Declaration shall remain in full force and effect.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

**IN WITNESS WHEREOF**, the Board of Directors has caused this Second Amendment to be executed under seal the day and year first above written.

**ASSOCIATION:** **WESTWOOD TERRACE TOWNHOME ASSOCIATION, INC.**, a Georgia nonprofit corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Bruce Fratto, President

Attest: \_\_\_\_\_

Name: \_\_\_\_\_

Alex Berg, Secretary

Sworn to and subscribed before me this  
19 day of January, 2019.

NOTARY PUBLIC

My Commission Expires: 1 June 2020

[AFFIX NOTARY SEAL]

EXHIBIT "A"

Sworn Statement of the Secretary of  
Westwood Terrace Townhome Association, Inc.

STATE OF GEORGIA  
 COUNTY OF COBB

Re: Westwood Terrace Townhome Association, Inc.

Personally, appeared before me, the undersigned deponent who, being duly sworn, deposed and said on oath that:

1. Deponent is the Secretary of Westwood Terrace Townhome Association, Inc.
2. Deponent is duly qualified and authorized to make this Affidavit and knows the facts contained herein are of his or her own personal knowledge.



3. The foregoing Amendment to the Declaration of Covenants and Restrictions for Westwood Terrace was approved by members of the Association who own, in the aggregate, no-fewer than sixty-seven percent (67%) of the Townhomes not owned by the Declarant.
4. Deponent makes this Affidavit pursuant to Official Code of Georgia Annotated Section 44-2-20 and the Declaration of Covenants and Restrictions for Westwood Terrace.

This 19<sup>th</sup> day of January, 2019.

By:

Alex Berg

Name:

Alex Berg

Sworn to and subscribed before me this  
19 day of January, 2019.

[Signature]

NOTARY PUBLIC

My Commission Expires: 1 June 2020

