

Return after recording
to:
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Suite 300
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Reference to:
Deed Book 11792, Page 240

FIFTH AMENDMENT TO DECLARATION OF CONDOMINIUM FOR THE VILLAS AT KOLB FARM CONDOMINIUM

This Fifth Amendment to Declaration of Condominium for The Villas at Kolb Farm Condominium (the "Amendment") is made this ____ day of _____, 2001 by The Villas at Kolb Farm Condominium Association, Inc. with the agreement of the Owners of Units to which two-thirds (2/3) of the votes in the Association pertain.

W I T N E S S E T H

WHEREAS, The Villas at Kolb Farm Condominium is a residential condominium established pursuant to that certain Declaration of Condominium for The Villas at Kolb Farm Condominium recorded on October 19, 1998 at Deed Book 11792, Page 240, Cobb County, Georgia records; as amended by that certain First Amendment to Declaration of Condominium for The Villas at Kolb Farm Condominium recorded on February 25, 1999 at Deed Book 12235, Page 192, aforesaid records; as further amended by that certain Second Amendment to Declaration of Condominium for The Villas at Kolb Farm Condominium recorded on April 8, 1999 at Deed Book 12376, Page 20, aforesaid records; as further amended by that certain Third Amendment to Declaration of Condominium for The Villas at Kolb Farm Condominium recorded on November 5, 1999 at Deed Book 13054, Page 314, aforesaid records; and as further amended by that certain Fourth Amendment to Declaration of Condominium for The Villas at Kolb Farm Condominium recorded on January 25, 2000 at Deed Book 13238, Page 1950, aforesaid records (said Declaration, as so amended, being hereinafter referred to as the "Declaration");

WHEREAS, the Condominium Plat for The Villas at Kolb Farm Condominium is recorded in Plat Book 5, Pages 176 through 179, Cobb County, Georgia records;

WHEREAS, Floor Plans depicting the Units in the Condominium are recorded in Condominium Floor Plan File No. 98-0009, Cobb County, Georgia records;

WHEREAS, pursuant to Section 8.03 of the Declaration, said Declaration may be amended by the agreement of Owners of Units to which two-thirds (2/3) of the votes in the Association pertain provided that every amendment to the Declaration is subject to the prior written approval of the Declarant so long as the Declarant owns any Unit primarily for the purpose of sale or has the option to expand the Condominium pursuant to Article XI of the Declaration;

WHEREAS, the Declarant no longer owns any Unit primarily for the purpose of sale and no longer has the option to expand the Condominium pursuant to Article XI of the Declaration; and

WHEREAS, the following Amendment has been approved by the Owners of Units to which two-thirds (2/3) of the votes in the Association pertain as evidenced by the Certification of Approval attached hereto as Exhibit "A" and by this reference made a part hereof;

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

1. Section 6.09 of the Declaration is hereby deleted in its entirety and the following Section 6.09 is hereby substituted therefor:

6.09 Leasing of Units. The leasing of Units within the Condominium shall be governed by the provisions of this Section 6.09.

(a) "Leasing" for purposes of this Amendment and the Declaration, is defined as regular occupancy of a Unit by any person other than the Owner, with or without a written lease agreement, for which the Owner, any relative of the Owner, or any other agent of the Owner receives any consideration or benefit. The leasing of Units in the Condominium is prohibited except in cases of Undue Hardship as determined by the Board of Directors. In order for leasing to be permitted on the basis of Undue Hardship, the Owner must submit a written application to the Board of Directors setting forth the circumstances necessitating the leasing and such application must be approved in writing by the Board of Directors prior to the commencement of any lease. In such cases leasing shall be permitted for such duration as the Board determines is necessary to prevent Undue Hardship. In the event the Board permits an Owner to lease a Unit for a stated period of time in order to prevent Undue Hardship, such Owner shall immediately discontinue leasing of his or her Unit at the end of such period of time unless the Board renews or extends permission to lease. "Undue Hardship" includes, but is not limited to situations where:

(i) An Owner must relocate and cannot within ninety (90) days from the date the Unit is placed on the market to sell the Unit for a price equal to or exceeding its current appraised value;

(ii) The Owner dies and the Unit is being administered by his or her estate; and

(iii) The Owner takes a leave of absence or temporarily relocates and intends to return and reside in the Unit.

(b) Such leasing as is permitted by this Section shall be governed by the provisions of this Paragraph. Units may be leased only in their entirety, no fraction or portion may be rented. No transient tenants may be accommodated therein. All leases must be in writing and for a term of one (1) year or such shorter term as may be specified by the Board of Directors. The Unit Owner must provide to the tenant copies of the Declaration, Bylaws, Rules and Regulations and other governing documents of the Association (the "Governing Documents"). All leases and tenants are subject to the Governing Documents and to the provisions of this Amendment and by occupancy of a Unit each tenant agrees to the applicability of the foregoing and agrees to comply strictly with all provisions thereof, as any of the foregoing may be lawfully amended from time to time. The tenant and the Unit Owner shall be jointly and severally liable for the payment of all fines and other charges which become due as a consequence of tenant's activities, including, but not limited to, activities which violate provisions of the Governing Documents. Upon entering into any lease, the Unit Owner shall notify the Board of Directors in writing of the name or names of the tenant or tenants, the names of all persons entitled to occupy the Unit pursuant to such lease, the terms of such lease, and such other information as may be reasonably required by the Board of Directors.

(c) The Board of Directors is authorized to adopt rules, regulations, standards and procedures governing the leasing of Units in the Condominium, which rules, regulations, standards and procedures may expand upon or add to the restrictions set forth in this Section and shall be enforceable as if set forth herein.

(d) Notwithstanding any provision contained herein to the contrary, those Unit Owners who, on the recording date of this Amendment, were leasing their Units and who provide the Board of Directors with a copy of their lease within sixty (60) days of such recording date, shall not be subject to the prohibition on leasing set forth in subparagraph (a) hereof; provided, however, (i) upon occupancy of the Unit by any such Unit Owner, the Unit and Unit Owner shall thereupon become subject to said prohibition on leasing; and (ii) upon any sale, transfer or other conveyance of the Unit, any purchaser, transferee or grantee thereof shall be subject to said prohibition on leasing and to all other provisions of this Section.

2. In the event a court of competent jurisdiction determines that this Amendment materially and adversely affects the security, title or interest of any mortgagee, then this Amendment shall not be binding on such mortgagee unless such mortgagee first consents to this Amendment, and if such consent is not forthcoming, then the provisions of the Declaration prior to this Amendment shall control with respect to such mortgagee.

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

IN WITNESS WHEREOF, the undersigned officers of The Villas at Kolb Farm Condominium Association, Inc. hereby execute this Amendment on the date and year first above written.

THE VILLAS AT KOLB FARM CONDOMINIUM
ASSOCIATION, INC., a Georgia non-profit
corporation

By: _____
Print Name: _____
Print Title: President

Attest: _____
Print Name: _____
Print Title: Secretary [SEAL]

Signed, sealed and delivered
in the presence of:

Unofficial Witness

Notary Public

My Commission Expires: _____
[Notarial Seal]

EXHIBIT "A"

CERTIFICATION OF APPROVAL

The undersigned officers of The Villas at Kolb Farm Condominium Association, Inc. hereby swear under oath that the above Amendment to the Declaration of Condominium for the Villas at Kolb Farm Condominium was duly adopted by the agreement of the required majority of the Unit Owners and that all notices required under the Georgia Condominium Act were properly given.

Sworn to and subscribed before
this ____ of _____, 2001.

By: _____
Print Name: _____
Print Title: President

Notary Public

My commission expires: _____

Attest: _____
Print Name: _____
Print Title: Secretary

[Notary Seal]