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WAKE COUNTY, NC 420
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
05/14/2012 AT 16:42:14

BOOK:014764 PAGE:00982 - 00985

Drawn by and HOLD FOR: Moore & Alphin, PLLC (ap) (Box 155) *AP*

**FOURTH AMENDMENT TO
DECLARATION OF CONDOMINIUM
FOR COTTAGES AT BRIER CREEK, A CONDOMINIUM**

This Fourth Amendment To Declaration Of Condominium For Cottages At Brier Creek, A Condominium (hereinafter "Fourth Amendment") is made as of the date set forth in the notary acknowledgment below, by **TOLL AT BRIER CREEK LIMITED PARTNERSHIP**, a North Carolina limited partnership ("Declarant").

RECITALS

Declarant has previously executed and recorded in Book 12967, Page 2163, Wake County Registry, that certain Declaration Of Condominium For Cottages At Brier Creek, A Condominium, which Declarant has previously amended, for the purpose of subjecting additional land to said Declaration, by that certain First Amendment To Declaration Of Condominium For Cottages At Brier Creek, A Condominium [Building 14; Amenity], recorded in Book 13179, Page 1115, Wake County Registry, amended to change the maximum number of rental units, by Second Amendment to Declaration of Condominium for Cottages at Brier Creek, a Condominium, recorded in Book 13265, Page 703, amended to specify that this is a phased community, by Third Amendment to Declaration of Condominium for Cottages at Brier Creek, A Condominium, recorded in Book 13289, Page 2071, and supplemented to add additional property to the community by Supplementary Declarations recorded in Book 13622, Page 2359 (Building 13), Book 14281, Page 1902 (Building 4), and Book 14512, Page 2270 (Building 2) (said Declaration, Amendments and Supplements thereto being herein referred to as the "Declaration"). Any capitalized terms used in this Fourth Amendment but not defined herein shall have the meaning of such term as set forth in the Declaration.

Article XIV of the Declaration, entitled "Amendment To And Supplement Of Declaration", permits Declarant to amend the Declaration without the consent of any other Owner if the amendment is "of a nonmaterial nature, herein defined as amendments which do not impair or prejudice any rights of any Owner".

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Declarant desires to amend the Declaration to change the dining privileges from mandatory to voluntary, and Declarant has determined that this Fourth Amendment does not impair or prejudice and rights of any Owner.

THEREFORE, Declarant does hereby amend the Declaration as follows:

1. Section 21.1 of the Declaration, entitled "Country Club", is amended by deleting the following: "Each Owner under this Declaration may apply for other types of membership (other than dining privileges) to the Brier Creek Country Club, at his or her option, if qualified and subject to availability and the terms of the applicable Brier Creek Country Club governing documents".
2. Section 21.2 of the Declaration, entitled "Dining Privileges", is amended by deleting said Section in its entirety and substituting therefor the following:

"Section 21.2. Country Club Membership Privileges. Notwithstanding the disclaimer set forth in Section 21.1 of Article XXI of this Declaration, the Club Owner grants to each owner of a Unit the option to purchase certain Membership Privileges as determined by the Club Owner from time to time, which rights shall run with the Property and all parts thereof and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof or interest therein and on their heirs, successors and assigns, and shall inure to the benefit of each owner of the Property or any part thereof or interest therein. Each purchaser of a Unit at the time of closing (both initial sales by Declarant and subsequent re-sales) may pay to the Club Owner an initial non-refundable contribution equal to an amount as may be determined by the Club Owner from time to time. A Unit purchaser is not required to pay the initial fee. However, if a Unit purchaser does pay this fee, then the purchaser will be able to enjoy the Membership Privileges."

2. Except as specifically amended by this Fourth Amendment, the Declaration, as previously amended, remains unchanged and in full force and effect.

IN WITNESS WHEREOF, Declarant has caused this Fourth Amendment to be executed, as of the date set forth in the notary acknowledgment below.

TOLL AT BRIER CREEK LIMITED PARTNERSHIP

By: Toll NC GP Corp., its General Partner

By:



Thomas J. Anhalt
Group President

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STATE OF NORTH CAROLINA – COUNTY OF WAKE:

I, the undersigned, a Notary Public for WAKE County, North Carolina, certify that **Thomas J. Anhut** personally appeared before me and acknowledged that he is a Group President of **TOLL NC GP CORP.**, a North Carolina corporation, General Partner of **TOLL AT BRIER CREEK LIMITED PARTNERSHIP**, a North Carolina limited partnership, and that, in such capacity, he signed the within and foregoing document on behalf of said corporation as General Partner of said limited partnership, by their authority duly given.

Witness my hand and official stamp or seal, this the 10th day of April, 2012.

(Stamp or Seal)



Janet L. Rauschenbach
Notary Public
Printed Name: JANET L. RAUSCHENBACH
My commission expires: 6/7/2015

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Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.



Wake County Register of Deeds
Laura M. Riddick
Register of Deeds

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_____ # of Pages 4

22/003-1/2006