

BK011616PG02040

WAKE COUNTY, NC 615
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
10/03/2005 AT 13:17:54

BOOK:011616 PAGE:02040 - 02045

After recording, please return to:
Adrienne Mabry
KB HOME RALEIGH-DURHAM LLC
1100 Navaho Drive, Suite GL3
Raleigh, NC 27609

CROSS REFERENCE:
Deed Book 10865; Page 470
Deed Book 10972; Page 1038
Deed Book 11616 Page 02034

**THIRD AMENDMENT TO DECLARATION OF
PROTECTIVE COVENANTS
FOR BATTLE RIDGE NORTH AND TO THE BYLAWS OF BATTLE RIDGE AT
CHASTAIN COMMUNITY ASSOCIATION, INC.**

THIS THIRD AMENDMENT (hereinafter referred to as "Third Amendment") is made this 14th day of September, 2005 by **JERRY L. GOWER**, an individual resident of the State of North Carolina (hereinafter sometimes called "Declarant").

WITNESSETH

WHEREAS, Declarant executed that certain Declaration of Protective Covenants for Battle Ridge at Chastain and those certain Bylaws of Battle Ridge at Chastain Homeowners Association, Inc. which were recorded on June 9, 2004 in Deed Book 10865, Page 470, *et seq.*, Wake County, North Carolina records, as amended by that certain First Amendment to Declaration of Protective Covenants for Battle Ridge at Chastain and to the Bylaws of Battle Ridge at Chastain Homeowners Association, Inc. which was recorded on August 16, 2004 in Deed Book 10972, Page 1038, *et seq.*, aforesaid records and that certain Second Amendment to Declaration of Protective Covenants for Battle Ridge North and to the Bylaws of Battle Ridge at Chastain Homeowners Association, Inc. which was recorded on 10/3/05 in Deed Book 11616, Page 02034, *et seq.*, aforesaid records (hereinafter as supplemented and/or amended from time to time, the "Declaration" and "Bylaws," respectively); and

WHEREAS, the Declarant desires to amend the Declaration and the Bylaws as set forth herein and intends for this Third Amendment to be prospective only; and

WHEREAS, pursuant to Section 11.6 of the Declaration, the Declaration may be amended upon the affirmative vote or written agreement of the Owners to which at least sixty-seven (67%) percent of the Total Association Vote is allocated and the consent of Declarant (until the earlier of: (a) the date that the Declarant no longer owns any property in the Community and Declarant no longer has the right to unilaterally annex additional property to the Community and a certificate of occupancy has been issued for a dwelling on each Lot in the Community; or (b) the date of recording by Declarant in the real estate records of the county where the Community is located of a written instrument terminating its consent rights); and

WHEREAS, pursuant to Section 6.4 of the Bylaws, the Bylaws may be amended upon the affirmative vote of at least two-thirds (2/3) of the Total Association Vote and the consent of Declarant (until the earlier of: (a) the date that the Declarant no longer owns any property in the Community and Declarant no longer has the right to unilaterally annex additional property to the Community and a certificate of occupancy has been issued for a dwelling on each Lot in the Community; or (b) the date of recording by Declarant in the real estate records of the county where the Community is located of a written instrument terminating its consent rights); and

WHEREAS, Declarant, as the Owner of all the Lots in the Community, is the holder of all of the votes in the Association;

NOW THEREFORE, the Declarant hereby adopts this Third Amendment to the Declaration and the Bylaws, 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.

The Declaration is hereby amended by deleting Section 7.27 of the Declaration in its entirety and inserting in lieu thereof the following new Section 7.27:

7.27 Window Treatments. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades or for any other purpose. The side of all window treatments, with the exception of stained wood blinds or shutters, which can be seen at any time from the outside of any structure located on a Lot must be white or off-white.

2.

The Bylaws are hereby amended by adding the following new Sections 2.12 and 2.13 to the end of Article II of the Bylaws:

2.12 Action Without A Formal Meeting. Any action required or permitted to be approved by the members may be approved without a meeting if one (1) or more consents, in writing, setting forth the action so taken, shall be signed and dated by members (including the Declarant, if the

consent of the Declarant is required) holding the voting power required to pass such action at a meeting held on the record date for such action. The record date for such action shall be the date that the first member signs a consent. Such action shall be approved when the Secretary receives a sufficient number of such consents dated within seventy (70) days of the record date for such action. If less than unanimous consent is obtained, the approval shall be effective ten (10) days after the Secretary gives written notice of the approval to all members who did not sign a consent. Each signed consent shall be included in the minutes of meetings of members filed in the permanent records of the Association.

2.13 Action By Written Ballot. Any action that may be taken at any annual, regular or special meeting of members may be taken without a meeting if approved by written ballot as provided herein. The Association shall deliver a written ballot to each member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements; state the percentage of approvals necessary to approve each matter other than election of directors; and specify the time by which a ballot must be received by the Association in order to be counted. A timely written ballot received by the Association may not be revoked. Approval by written ballot of an action shall only be valid when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting held to authorize such action and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. The results of each action by written ballot shall be certified by the Secretary and shall be included in the minutes of meetings of members filed in the permanent records of the Association.

3.

The Bylaws are hereby amended by deleting Sections 3.3 and 3.5 of the Bylaws in their entirety and inserting in lieu thereof the following new Sections 3.3 and 3.5:

3.3 Number of Directors. During the period that the Declarant has the right to appoint and remove the officers and directors of the Association as provided above, the Board of Directors shall consist of from one to three directors as determined by Declarant in writing from time to time. Thereafter, the Board shall consist of three or five directors, who shall be elected as provided below.

3.5 Election and Term of Office. After the Declarant's right to appoint directors and officers terminates, the Association shall call a special meeting and the members shall elect three directors as follows: the initial term of two (2) directors (or three (3) directors in the event the total number of directors is five) shall be fixed at two (2) years, and thereafter successors shall be elected to a term of two (2) years; the initial term of one (1) director (or two (2) directors in the event the total number of directors is five) shall be fixed at one (1) year, and thereafter successors shall be elected to a term of two (2) years. At annual meetings thereafter, directors shall be elected as necessary to fill vacant seats on the Board. A quorum must be present at the meeting. All eligible members of the Association shall vote on all directors to be elected, and the candidates receiving the most votes shall be elected.

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4.

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

5.

This Third Amendment shall be effective only upon being recorded in the records of the Register of Deeds of Wake County, North Carolina and shall be enforceable against current Owners of a Lot subject to the Declaration.

6.

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

[SIGNATURE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Declarant hereby executes this instrument, this
14th day of September, 2004⁵.

DECLARANT:

Jerry L. Gower
Jerry L. Gower

NORTH CAROLINA

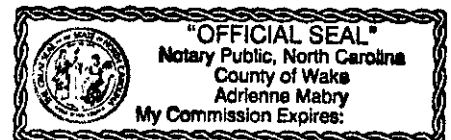
Wake COUNTY

I, a Notary Public of the County and State aforesaid, certify that Jerry L. Gower personally appeared before me this day and acknowledges that he is an individual resident of North Carolina.

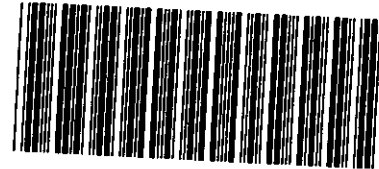
Witness my hand and official stamp or seal, this 14th day of September, 2004²⁰⁰⁵.

[STAMP/SEAL]

Adrienne Mabry
Notary Public



My Commission Expires: 12 - 11 - 2006



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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

North Carolina – Wake County

The foregoing certificate___ of _____

_____ Notary(ies) Public is (are) certified to be correct. This instrument
and this certificate are duly registered at the date and time and in the book and
page shown on the first page hereof.

Laura M. Riddick, Register of Deeds

By: _____
Assistant/Deputy Register of Deeds

This Customer Group
_____ # of Time Stamps Needed

This Document
_____ New Time Stamp
_____ # of Pages
6