

This Instrument Prepared By:

Juan E. Rodriguez, Esquire

OMON, KANNER, DAMIAN & RODRIGUEZ, P.A.

W. 8th Street

Suite 2550

Miami, Florida 33130

INSTR # 200800006857, Pages 18

Doc Type RES, Recorded 01/09/2008 at 08:47 AM,

Charlie Green, Lee County Clerk of Circuit Court

Rec. Fee \$154.50

Deputy Clerk GWAITE

#2

**SECOND AMENDMENT TO DECLARATION
OF COVENANTS, RESTRICTIONS, CONDITIONS AND EASEMENTS
OF CATALINA AT WINKLER**

This Second Amendment to Declaration of Covenants, Restrictions, Conditions and Easements of Catalina at Winkler (the "Second Amendment") is made and entered into this 21th day of December, 2007, by D. R. Horton, Inc., a Delaware corporation ("Declarant").

Whereas, the Declaration of Covenants, Restrictions, Conditions and Easements of Catalina at Winkler (the "Declaration") was recorded in Official Records Book 4787, at Page 2258 of the Public Records of Lee County, Florida, by Declarant.

Whereas, the Declaration was amended by Amendment to Declaration of Covenants, Restrictions, Conditions and Easements of Catalina at Winkler recorded under Instrument Number 2006000073618 of the Public Records of Lee County, Florida.

Whereas, pursuant to Article XIV, Section 4 of the Declaration, so long as there is a Class B Membership, the Declaration may be amended by Declarant.

Whereas, Class B Membership is still in existence.

Now, Therefore, the following Amendment is made by Declarant, as follows:

1. Article I, Section 1 of the Declaration is deleted and replaced with the following:

Section 1. "Articles" shall mean and refer to the Articles of Incorporation of Catalina at Winkler Homeowners' Association, Inc., a not-for-profit Florida corporation, and all exhibits which are attached thereto, and shall include such amendments, if any, as may be adopted from time to time pursuant to the terms thereof. Copies of the Articles are attached as Exhibit "A-1".

2. Article I, Section 2 of the Declaration is deleted and replaced with the following:

Section 2. "By-Laws" shall mean and refer to the By-Laws of Catalina at Winkler Homeowners' Association, Inc., a not-for-profit Florida corporation, and all exhibits which are attached thereto, and shall include such amendments, if any, as may be adopted from time to time pursuant to the terms thereof. Copies of the By-Laws are attached hereto as Exhibit "A-2".

3. Article VI, Section 16 of the Declaration is added, as follows:

Section 16. Delinquency in Payment of Assessments-Loss of Right to Use of

Common Area (Other than Roadways). In addition to the other remedies provided for in this Declaration, in the event that an Owner, other than the Declarant, is more than thirty (30) days delinquent in the payment of his or her assessments to the Association, then the Owner, his or her family, guests, invitees and tenants shall have no right to use the Common Area other than the roadways serving as Common Area. The loss of use of the Common Area described herein shall include the loss of the right of the Owner, his or her family, guests, invitees and tenants from using the Recreational Facilities serving as Common Area. Under no circumstances will the Owner, his or her family, guests, invitees and tenants be prevented from using the roadways serving as Common Area for failure to pay assessments so long as the Owner owns a Unit within the Property. Once the Owner is no longer more than thirty (30) days delinquent in the payment of his or her assessments to the Association, then the Owner and his or her family, guests, invitees and tenants shall have the right to use the Common Area including the Recreational Facilities.

4. Article VI, Section 17 of the Declaration is added as follows:

Section 17. Delinquency In Payment of Assessments-Loss of Voting Rights. In addition to the other remedies provided for in this Declaration, in the event that an Owner, other than the Declarant, is more than ninety (90) days delinquent in the payment of his or her assessments to the Association, then the Owner shall have no voting rights in the Association. Once the Owner is no longer delinquent in payment of his or her assessments to the Association, then the Owner shall again have voting rights in the Association.

5. Article XIV, Section 5 of the Declaration is deleted and replaced with the following:

Section 5. Fines and Loss of Right to Use Common Area (other than Roadways). In addition to all other remedies provided for in this Declaration, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an Owner or an Owner his family, guests, invitees and tenants may lose the right to use the Common Areas, other than the roadways, for failure of an Owner, his family, guests, invitees or employees, to comply with any covenant, restriction, rule or regulation, provided the following procedures are adhered to:

(a) Notice: The Association shall notify the Owner of the alleged infraction or infractions. Included in the notice shall be the date and time of a special meeting of the Board of Directors of the Association, at which time the Owner shall present reasons why a fine(s) or loss of the right to use of the Common Area should not be imposed. At least fourteen (14) days notice of such meeting shall be given.

(b) Hearing: The alleged non-compliance shall be presented to the Board of Directors at which time the Board of Directors shall hear reasons why a fine(s) or loss of the right to use of the Common Areas should not be imposed. A written decision of the Board of Directors shall be submitted to the Owner by not later than fifteen (15) days after the meeting. The Owner shall have a right to be represented by counsel and to cross examine witnesses.

(c) Amounts: If the findings of the Board of Directors are made against the Owner, the Board of Directors may impose special assessments against the Unit owned by the Owner or impose the loss of the right to use the Common Area, other than the roadways, as follows:

(1) First non-compliance or violation which are of a continuing nature: a fine not in excess of Fifty and No/100 (\$50.00) Dollars per day without a limitation on the aggregate amount of the amount due.

(2) Second non-compliance or violation which are of a continuing nature: a fine not in excess of One Hundred and No/100 (\$100.00) Dollars per day without a limitation on the aggregate amount of the amount due.

(3) Third non-compliance or violation which are of a continuing nature: loss of the right to use the Common Areas other than the roadways by the Owner, his or her family, guests, invitees and tenants.

(d) Payment of Penalties. Fines shall be paid not later than five (5) days after notice of the imposition or assessment of the penalties. Once all fines are paid and the violations cured, then the Owner his or her family, guests, invitees and tenants shall be permitted to use the Common Areas.

(e) Application of Proceeds. All monies received from fines shall be allocated as directed by the Board of Directors of the Association.

(f) Non-Exclusive Remedies. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; provided, however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

6. Except as amended herein, the Declaration, as amended by the First

Amendment is hereby ratified and confirmed.

In Witness Whereof, D. R. Horton, Inc. has executed this Second Amendment to Declaration this 27th day of December, 2007.

Signed, sealed and delivered in the presence of:

D. R. Horton, Inc.,
a Delaware corporation

Molly A. Syvret
Name: Molly A. Syvret

By: [Signature]
Name: _____
Title: Paul J. Romanowski
Vice-President

Elizabeth Gallaway
Name: Elizabeth Gallaway

STATE OF FLORIDA)
) SS.:
COUNTY OF Lee)

The foregoing instrument was acknowledged before me this 27th day of December, 2007, by Paul Romanowski, as Vice-President of D. R. Horton, Inc., a Delaware corporation, and on behalf of said corporation. Said individual is personally known to me and/or has produced a _____ as identification.

My Commission Expires:
NOTARY PUBLIC-STATE OF FLORIDA
Molly A. Syvret
Commission # DD720142
Expires: JUNE 06, 2009
BONDED THRU ATLANTIC BONDING CO., INC.

Molly A. Syvret
Name: Molly A. Syvret
Notary Public, State of Florida at Large

JOINDER

Catalina at Winkler Homeowners' Association, Inc., a not-for-profit Florida corporation, whose mailing address is 1245 South Military Trail, Suite 100, Deerfield Beach, Florida 33442, hereby approves and joins in the Second Amendment to Declaration of Covenants, Restrictions, Conditions and Easements of Catalina at Winkler, and agrees to be bound by the terms thereof and will comply with and perform the terms and conditions of the Second Amendment to Declaration.

In Witness Whereof, Catalina at Winkler Homeowners' Association, Inc. has executed this Joinder on this 2nd day of ~~December~~, 2007.
January 8

Signed, sealed and delivered
presence of:

Catalina at Winkler Homeowners
Association, Inc., a not-for-profit Florida
Corporation

Molly A. Syvret
Name: Molly A. Syvret

By: [Signature]
Name: FAUN COFFIN
Title: PRESIDENT
(Corporate Seal)

Elizabeth Gallaway
Name: Elizabeth Gallaway

STATE OF FLORIDA)
 Lee):SS.
(COUNTY OF BROWARD)

January The foregoing instruction was acknowledged before me this 2nd day of December, 2007, by Fawn Coffin, as President of Catalina at Winkler Homeowners' Association, Inc., a not-for-profit Florida corporation, on behalf of said Corporation. Said individuals is personally known to me and/or has produced _____ as identification.

Molly A. Syvret
Name: Molly A. Syvret
Notary Public, State of Florida at Large

My Commission Expires:

