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Return To:

STATE OF ALABAMA }
COUNTY OF BALDWIN }

BALDWIN COUNTY, ALABAMA
TIM RUSSELL, PROBATE JUDGE
Filed/ent. 11/12/2010 9:35 AM
TOTAL \$ 324.00
106 Pages

1259394

AMENDMENT
TO
RESTRICTIVE COVENANTS OF BAY FOREST ESTATES

WHEREAS, the Restrictive Covenants of Bay Forest Estates were heretofore executed on December 3, 1980, by the developer, Bay Forest, Inc., and filed of record as part of an amendment to said covenants styled, "Amendments to the Restrictive Covenants for Bay Forest Estates," on June 24, 1994, in Miscellaneous Book 78, Page 1754, et seq., in the Office of the Judge of Probate of Baldwin County, Alabama.

AND WHEREAS, said covenants have since been amended on several occasions, and a meeting of the Board of Directors was held for the purpose of recommending further amending said covenants to extend the covenants for a period of Ninety-Nine (99) years from December 3, 2010.

AND WHEREAS, the said Board of Directors voted unanimously to amend the covenants to extend same for said ninety-nine (99) year period.

AND WHEREAS, in accordance with Item (Paragraph) 21 of said covenants, more than Eighty Percent (80%) of the lot owners in the subdivision affirmatively voted and executed written ballots to extend said covenants for such period, and a certification by the Board of Directors and the original ballots of the lot owners are all attached hereto and made a part hereof.

NOW, THEREFORE, the premises considered, the said Restrictive Covenants of Bay Forest Estates are hereby amended as follows, to-wit:

Item (Paragraph) 1 is hereby amended to read as follows, to-wit:

1. All of the provisions, restrictions, covenants, liens and charges set forth herein shall affect each and all of the lots in Bay Forest Subdivision as shown and delineated on the said map or plat of same, except those areas designated as "access areas," and shall run with the land and shall exist and be binding upon all parties and all persons claiming under them for a period of ninety-nine (99) years from the date of the execution hereof, unless sooner annulled, amended, or modified pursuant to the provisions hereof.

All other provisions of said Restrictive Covenants, as heretofore and as may hereafter be further amended, shall remain unchanged and effective as written.

IN WITNESS WHEREOF, the Board of Directors has caused this Amendment to be duly executed under seal by and through the President and the Secretary on this 30 day of October, 2010.

ATTESTED BY:

BAY FOREST ESTATES PROPERTY OWNERS ASSOCIATION, INC.,

Christine M. Anglin
BY CHRISTINE ANGLIN
As Its Secretary

Henry Baroco (SEAL)
BY HENRY BAROCO
As Its President

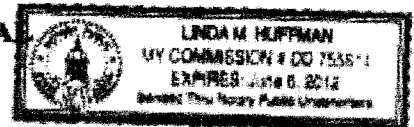
STATE OF Florida
COUNTY OF Escambia

I, Linda M. Huffman, a Notary Public in and for said county and said state, do hereby certify that HENRY BAROCO, whose name(s) as President of BAY FOREST ESTATES PROPERTY OWNERS ASSOCIATION, INC., an Alabama non-profit corporation, is/are signed to the foregoing Amendment and who is/are known to me or otherwise produced valid identification, acknowledged before me on this day, that, after being informed of the contents of said instrument, he/she/they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal on this 30 day of October, 2010.

My Commission Expires:

NOTARY SEAL



06/06/2012

Linda M. Huffman
NOTARY PUBLIC

"COPY"

RECORDED
\$ 25.00
PROPERTY TAXES COLLECTED ON

JUN 24 10 29 AM '94

Amendments To The Restrictive Covenants
for Bay Forest Estates, Recommended by
the Board of Directors, March 27, 1991:

PRESENT COVENANT

DEED
MINETTE
RECORDED
March 28 / 1991
1754-1763

3. All roads, streets, alleyways, access areas and easements shown on the plat of Bay Forest Estates are not dedicated, donated, nor granted to the public, but are expressly reserved unto Bay Forest Inc. Bay Forest Inc. intends to convey all roads, streets, alleyways, access areas and easements shown on the plate of Bay Forest Estates to Bay Forest Estates Property Owners Association, a non-profit corporation to be held and maintained according to the provisions of the articles of incorporation and by-laws of the Bay Forest Estates Property Owners Association.

UPDATE

3. All roads, streets and their necessary easements shall be conveyed to Baldwin County as per vote of the membership of the Bay Forest Property Owners Association request and intent at the annual meeting of March 26, 1988. If any mineral rights be restricted by provisions recorded in Bay Minette, the restrictions remain valid.

PRESENT COVENANTS

Article 4 - The fifth sentence reads: Each improvement to be constructed on any property shall be completed within six months from date construction commences.

UPDATE

Article 4 - fifth sentence shall read: Each improvement to be constructed on any property shall be completed within twelve months from date construction commences.

These two amendments to the restrictive covenants were adopted at the April 20, 1991 called meeting of the BFEPOA; and they were recorded in the Baldwin County Courthouse in May, 1991.

MCS 0078 PAGE 1754

STATE OF ALABAMA §
COUNTY OF BALDWIN §

RESTRICTIVE COVENANTS FOR BAY FOREST ESTATES

WHEREAS, the undersigned BAY FOREST, INC., an Alabama corporation, is the owner (subject to a mortgage by BAY FOREST, INC., a corporation, said mortgage being recorded in the office of the Judge of Probate of Baldwin County, Alabama, in Real Property Book 82, at pages 272-274) of the real property in the County of Baldwin, State of Alabama, as more particularly shown by plat of BAY FOREST ESTATES recorded in Map Book 11, pages 77A-77C in the office of the Judge of Probate of Baldwin County, Alabama; and BAY FOREST, INC., desires to place certain beneficial restrictions, conditions, covenants, agreements, liens and charges under a general plan or scheme of improvement for the benefit of all of the land and lots within BAY FOREST ESTATES, except that these protective restrictions shall not apply to the areas designated on the plat of BAY FOREST ESTATES as "access areas", and BAY FOREST, INC., intends to make all conveyances of lots and land in the subdivision, except those marked "access areas", subject to these beneficial restrictions in order to insure the best use and most appropriate development and improvement of the property and to enhance the value of the property.

NOW, THEREFORE, BAY FOREST, INC., declares that all the property described above, except the property designated on the plat of BAY FOREST ESTATES as "access areas", shall be held, conveyed, and leased subject to the following restrictions, covenants, liens and charges, all of which shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the described lands or any part thereof:

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1. All of the provisions, restrictions, covenants, liens and charges set forth herein shall affect each and all of the above-described lots delineated on said map, except those areas designated on said map as "access areas", and shall run with the land and shall exist and be binding upon all parties and all persons claiming under them for a period of thirty (30) years from the date of recordation hereof, unless sooner annulled, amended or modified pursuant to the provisions hereof.
2. All of said provisions, restrictions, covenants, liens and charges set forth herein are made for the mutual and reciprocal benefit of each and every lot shown on said plat, and shall as to the owner of each lot in said subdivision, his heirs, successors or assigns, operate as covenants running with the land for the benefit of each and all other lots in said subdivision and their respective owners.
3. All roads, streets, alleyways, access areas and easements shown on the plat of BAY FOREST ESTATES are not dedicated, donated nor granted to the public, but are expressly reserved unto BAY FOREST, INC. BAY FOREST, INC., intends to convey all roads, streets, alleyways, access areas and easements, shown on the plat of BAY FOREST ESTATES to BAY FOREST ESTATES PROPERTY OWNERS' ASSOCIATION, a Non-Profit Corporation, to be held and maintained according to the provisions of the Articles of Incorporation and By-Laws of BAY FOREST ESTATE PROPERTY OWNERS' ASSOCIATION.
4. Except for those lots designated on the plats of BAY FOREST ESTATES as "access areas" and the special provisions applying to Lot 500-C, all lots and parcels of land designated on said plat shall be known and described as residential lots and no lot shall be used except for residential purposes. No building or structure shall be erected, altered, placed or permitted to remain on any residential lot other than one detached single-family dwelling, not to exceed two stories in height (except that an attic or a basement floor under the ground surface shall not be considered a story for this purpose) and a private garage or carport and other appropriate outbuildings incidental to residential use. Other appropriate outbuildings shall include one outbuilding per lot to be used as a guest house, which outbuilding shall have a minimum of 500 square feet. The outbuilding shall be constructed in a manner that is compatible with the main dwelling, and may be constructed over any boat house placed on any residential lot. Each improvement to be constructed on any property shall be completed within six (6) months from the date construction commences. This paragraph providing for the restriction of the lots within BAY FOREST ESTATES for residential purposes exclusively shall not apply to Lot 500-C. Lot 500-C is permitted the residential use designated in this paragraph and in addition thereto may be used for commercial purposes.
5. Lots designated with the letter "A" shall contain improvements with not less than 1800 square feet for the ground floor area of the main building or structure, exclusive of one story open porches, open carports and garages and not less than 2200 square feet in the case of a story and a half building or structure; or, not

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less than 2800 square feet in the case of a two story building or structure. Lots designated with the letter "B" shall contain improvements with not less than 1500 square feet in the ground floor area of the main building or structure, exclusive of one story open porches, open carports and garages in the case of a one story building or structure; or, not less than 1000 square feet in the case of a story and a half building or structure; or, not less than 2100 square feet in the case of a two story building or structure. If Lot 500-C is used for residential purposes, then the residential improvements constructed thereon shall comply with "B" lot restrictions as to minimum size.

6. No building shall be located on any lot nearer than 50 feet from the front road lot line nor any nearer than 10 feet to any side line. No building shall be located on any lot nearer than 75 feet from the rear lot line, or in the case of a water front lot, no building shall be located on any lot nearer than 100 feet from the mean high tide of said water at the time of the commencing of construction of the improvement, except for a guest house which may be constructed over a boat house and may be placed closer than 100 feet to the mean high tide of said water.
7. No asbestos shingles, nor concrete block, nor metal shall be used on the exterior of any building or structure on any of said lots.
8. No trade or business activity (except on Lot 500-C) nor noxious or dangerous activity of any kind whatsoever shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance, nuisance, health hazard or safety hazard to the neighborhood.
9. No trailer, mobile home, modular home, or other prebuilt modular building, tent, shack, garage or any other outbuilding (except one guest house as described in paragraphs 4 and 6 above) on a lot shall at any time be used as a residence, temporary or permanent, nor shall any structure of a temporary character be used as a residence.
10. Domestic pets, such as dogs and cats, may be raised, bred, harbored or kept on any lot, provided that they are not raised or kept for any commercial use or purpose, and provided further that they do not become an annoyance or nuisance to the neighborhood.
11. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste material shall not be kept on any lot except in sanitary containers. All incinerators, garbage cans and other equipment for the storage or disposal of such material shall be kept in a clean, sanitary condition and shall not be kept or maintained so as to be visible from the streets of BAY FOREST ESTATES.
12. No sign or signboard of any kind shall be displayed to the public view on any lot other than signs of not more than 12 square feet each, as may be used by a builder while a residential building or structure or swimming pool is under construction on the lot or one of the same size if a house is being offered for sale. This provision shall not apply to Lot 500-C if it is used as a commercial lot.

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13. Each purchaser of a lot or lots in the subdivision shall by acceptance of a deed thereto or the signing of a contract or agreement to purchase the same, whether from Declarant or a subsequent owner of such lot or lots, binds himself, his heirs, personal representatives, and assigns, to pay all charges and assessments as shall be determined and levied upon such a lot and/or purchaser by BAY FOREST ESTATES PROPERTY OWNERS' ASSOCIATION, including interest on such charges and assessments and collection costs thereof, if any, including attorneys' fees; and the obligation to pay such charges, assessments, interest and costs thereby constitute a lien and an obligation running with the land.
14. All liens herein provided for shall be enforceable by appropriate legal proceedings, in the manner provided by law. No proceedings for enforcement of any such lien or liens shall be commenced except upon the expiration of four (4) months from and after the date the charge or assessment giving rise to such lien becomes due and payable.
15. The mortgage from BAY FOREST, INC., to ADALINE D. BROBOSTON, et. al., dated the 1 day of DEC., 1980, and recorded in Real Property Book 82, beginning at page 272, of the records in the office of the Judge of Probate of Baldwin County, Alabama, and any other liens of first mortgages placed upon any of said lots for the purpose of constructing a residence or other improvement thereon and recorded in accordance with the laws of the State of Alabama, shall be, from the date of such recordation, superior to any and all liens provided for herein. BAY FOREST ESTATES PROPERTY OWNERS' ASSOCIATION may, if requested, execute instruments to subordinate any and all liens provided for herein to such liens of first mortgages.
16. BAY FOREST ESTATES PROPERTY OWNERS' ASSOCIATION may, at its option, by appropriate written instrument recorded in accordance with the laws of the State of Alabama, subordinate any and all liens provided for herein to the liens of other mortgages and/or other encumbrances.
17. The covenants, terms and conditions, restrictions and limitations herein contained are to run with the land and shall be binding upon all parties and all persons claiming under them and shall inure to the benefit of, and shall be binding upon their, and each of their, heirs, executors, administrators and assigns.
18. No lot shall be conveyed, devised, leased or demised at any time hereafter, except as being subject to the covenants, restrictions, liens and charges herein contained, and whether or not it be so expressed in the deeds or other instruments of conveyance of property, the same shall be absolutely subject to the covenants, restrictions, liens and charges herein contained which shall run with and be appurtenant to the land and every part thereof, as fully as if expressly contained in each and every contract and conveyance of, or concerning any part of, the land or the improvements to be made thereon.
19. If the parties hereto, or any of them, or any of their heirs, executors, successors, administrators or assigns, or any such future owner or owners of any lot or lots within the subdivision or any of their heirs, executors, successors, administrators or assigns, shall violate or

MSC00795 PNF 1755

attempt to violate any of the covenants, restrictions and/or limitations herein contained, it shall be lawful for any person or persons owning any real property situated in said subdivision, or BAY FOREST ESTATES PROPERTY OWNERS' ASSOCIATION, a Non-Profit Corporation, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate the same to prevent such person or persons from so doing, or to recover damages for such violations or attempted violations.

20. Invalidation of any one of these covenants and/or limitations, or any part thereof, by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.
21. Any one or all of the covenants and restrictions hereinbefore set forth may be annulled, amended or modified at any time by an instrument executed by the owners of not less than eighty percent (80%) of the property in said subdivision, which said instrument shall be acknowledged by each of the persons signing the same and shall be filed and recorded in the office of the Judge of Probate of Baldwin County, Alabama, provided however, that no annulment, amendment or modification shall place an additional burden or restriction on any lot in said subdivision, the owner of which does not join in said amending instrument.

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IN WITNESS WHEREOF, BAY FOREST, INC., an Alabama corporation, has hereunto caused its corporate name to be signed by MONTY H. McVICKER, its President, and its corporate seal to be affixed and attested by GLYNN DWIGHT ST. ANDRE, its Secretary, both hereunto duly authorized, this the 3 day of DEC., 1980.

BAY FOREST, INC.
An Alabama Corporation

By: Monty H. McVicker
MONTY H. McVICKER
Its: President

ATTEST:

By: Glynn Dwight St. Andre
GLYNN DWIGHT ST. ANDRE
Its: Secretary

(Corporate Seal)

STATE OF ALABAMA
COUNTY OF BALDWIN

AMENDMENT TO RESTRICTIVE COVENANTS FOR
BAY FOREST ESTATES SUBDIVISION

The undersigned, constituting not less than 80% of the owners of the property located in Bay Forest Estates Subdivision, adopt the following amendment to the restrictive covenants of Bay Forest Estates Subdivision recorded in the Office of the Judge of Probate of Baldwin County, Alabama in Miscellaneous Book 38, Page 747 et seq.:

Paragraph six of said restrictive covenants is hereby amended to read as follows:

6. No building shall be located on any lot nearer than 50 feet from the front road lot line nor nearer than 10 feet to any side line. No building shall be located on any lot nearer than 75 feet from the rear lot line, or in the case of a waterfront lot, no building shall be located on any lot nearer than 75 feet from the mean-high tideline of said water at the time of the commencing of construction of the improvement, except for a guest house which may be constructed over a boathouse and may be placed closer than 100 feet to the mean-high tideline of said water.

In all other respects, said restrictive covenants are hereby ratified, approved and confirmed.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals on this the 1st day of June, 1984.

F & W PROPERTIES, INC.

By Bobby L. Smith
Its President

ATTEST:

By Dorsey E. White
Its Secretary

REC-0078 JUN 1984

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Richard L. Wood and Stanley C. White whose name as President and Secretary of F & W PROPERTIES, INC. a corporation, are signed to the foregoing instrument and who are known to me, acknowledged before me on this date that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily on the day the same bears date for and as the act of said corporation.

Given under my hand and seal on this the 1st day of June, 1984.

Mary Esther Hall
NOTARY

My Commission Expires October 11, 1988

NOTARY PUBLIC 1761

STATE OF ALABAMA §
COUNTY OF BALDWIN §

RESTRICTIVE COVENANTS FOR BAY FOREST ESTATES

WHEREAS, the undersigned BAY FOREST, INC., an Alabama corporation, is the owner (subject to a mortgage by BAY FOREST, INC., a corporation, said mortgage being recorded in the office of the Judge of Probate of Baldwin County, Alabama, in Real Property Book 82, at pages 171-174 of the real property in the County of Baldwin, State of Alabama, as more particularly shown by plat of BAY FOREST ESTATES recorded in Map Book 11, pages 77A-77C in the office of the Judge of Probate of Baldwin County, Alabama; and BAY FOREST, INC., desires to place certain beneficial restrictions, conditions, covenants, agreements, liens and charges under a general plan or scheme of improvement for the benefit of all of the land and lots within BAY FOREST ESTATES, except that these protective restrictions shall not apply to the areas designated on the plat of BAY FOREST ESTATES as "access areas", and BAY FOREST, INC., intends to make all conveyances of lots and land in the subdivision, except those marked "access areas", subject to these beneficial restrictions in order to insure the best use and most appropriate development and improvement of the property and to enhance the value of the property.

NOW, THEREFORE, BAY FOREST, INC., declares that all the property described above, except the property designated on the plat of BAY FOREST ESTATES as "access areas", shall be held, conveyed, and leased subject to the following restrictions, covenants, liens and charges, all of which shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the described lands or any part thereof:

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1. All of the provisions, restrictions, covenants, liens and charges set forth herein shall affect each and all of the above-described lots delineated on said map, except those areas designated on said map as "access areas", and shall run with the land and shall exist and be binding upon all parties and all persons claiming under them for a period of thirty (30) years from the date of recordation hereof, unless sooner annulled, amended or modified pursuant to the provisions hereof.
2. All of said provisions, restrictions, covenants, liens and charges set forth herein are made for the mutual and reciprocal benefit of each and every lot shown on said plat, and shall as to the owner of each lot in said subdivision, his heirs, successors or assigns, operate as covenants running with the land for the benefit of each and all other lots in said subdivision and their respective owners.
3. All roads, streets, alleyways, access areas and easements shown on the plat of BAY FOREST ESTATES are not dedicated, donated nor granted to the public, but are expressly reserved unto BAY FOREST, INC. BAY FOREST, INC., intends to convey all roads, streets, alleyways, access areas and easements, shown on the plat of BAY FOREST ESTATES to BAY FOREST ESTATES PROPERTY OWNERS' ASSOCIATION, a Non-Profit Corporation, to be held and maintained according to the provisions of the Articles of Incorporation and By-Laws of BAY FOREST ESTATE PROPERTY OWNERS' ASSOCIATION.
4. Except for those lots designated on the plats of BAY FOREST ESTATES as "access areas" and the special provisions applying to Lot 500-C, all lots and parcels of land designated on said plat shall be known and described as residential lots and no lot shall be used except for residential purposes. No building or structure shall be erected, altered, placed or permitted to remain on any residential lot other than one detached single-family dwelling, not to exceed two stories in height (except that an attic or a basement floor under the ground surface shall not be considered a story for this purpose) and a private garage or carport and other appropriate outbuildings incidental to residential use. Other appropriate outbuildings shall include one outbuilding per lot to be used as a guest house, which outbuilding shall have a minimum of 500 square feet. The outbuilding shall be constructed in a manner that is compatible with the main dwelling, and may be constructed over any boat house placed on any residential lot. Each improvement to be constructed on any property shall be completed within six (6) months from the date construction commences. This paragraph providing for the restriction of the lots within BAY FOREST ESTATES for residential purposes exclusively shall not apply to Lot 500-C. Lot 500-C is permitted the residential use designated in this paragraph and in addition thereto may be used for commercial purposes.
5. Lots designated with the letter "A" shall contain improvements with not less than 1000 square feet for the ground floor area of the main building or structure, exclusive of one story open porches, open carports and garages and not less than 2200 square feet in the case of a story and a half building or structure; or, not

RECORDED
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less than 2800 square feet in the case of a two story building or structure. Lots designated with the letter "b" shall contain improvements with not less than 1500 square feet in the ground floor area of the main building or structure, exclusive of one story open porches, open carports and garages in the case of a one story building or structure; or, not less than 1000 square feet in the case of a story and a half building or structure; or, not less than 2100 square feet in the case of a two story building or structure. If Lot 500-C is used for residential purposes, then the residential improvements constructed thereon shall comply with "b" lot restrictions as to minimum size.

6. No building shall be located on any lot nearer than 50 feet from the front road lot line nor any nearer than 10 feet to any side line. No building shall be located on any lot nearer than 75 feet from the rear lot line, or in the case of a water front lot, no building shall be located on any lot nearer than 100 feet from the mean high tide of said water at the time of the commencing of construction of the improvement, except for a guest house which may be constructed over a boat house and may be placed closer than 100 feet to the mean high tide of said water.
7. No asbestos shingles, nor concrete block, nor metal shall be used on the exterior of any building or structure on any of said lots.
8. No trade or business activity (except on Lot 500-C) nor noxious or dangerous activity of any kind whatsoever shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance, nuisance, health hazard or safety hazard to the neighborhood.
9. No trailer, mobile home, modular home, or other prebuilt modular building, tent, shack, garage or any other outbuilding (except one guest house as described in paragraphs 4 and 6 above) on a lot shall at any time be used as a residence, temporary or permanent, nor shall any structure of a temporary character be used as a residence.
10. Domestic pets, such as dogs and cats, may be raised, bred, harbored or kept on any lot, provided that they are not raised or kept for any commercial use or purpose, and provided further that they do not become an annoyance or nuisance to the neighborhood.
11. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste material shall not be kept on any lot except in sanitary containers. All incinerators, garbage cans and other equipment for the storage or disposal of such material shall be kept in a clean, sanitary condition and shall not be kept or maintained so as to be visible from the streets of BAY FOREST ESTATES.
12. No sign or signboard of any kind shall be displayed to the public view on any lot other than signs of not more than 12 square feet each, as may be used by a builder while a residential building or structure or swimming pool is under construction on the lot or one of the same size if a house is being offered for sale. This provision shall not apply to Lot 500-C if it is used as a commercial lot.

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13. Each purchaser of a lot or lots in the subdivision shall by acceptance of a deed thereto or the signing of a contract or agreement to purchase the same, whether from Declarant or a subsequent owner of such lot or lots, binds himself, his heirs, personal representatives, and assigns, to pay all charges and assessments as shall be determined and levied upon such a lot and/or purchaser by BAY FOREST ESTATES PROPERTY OWNERS' ASSOCIATION, including interest on such charges and assessments and collection costs thereof, if any, including attorneys' fees; and the obligation to pay such charges, assessments, interest and costs thereby constitute a lien and an obligation running with the land.
14. All liens herein provided for shall be enforceable by appropriate legal proceedings, in the manner provided by law. No proceedings for enforcement of any such lien or liens shall be commenced except upon the expiration of four (4) months from and after the date the charge or assessment giving rise to such lien becomes due and payable.
15. The mortgage from BAY FOREST, INC., to ADALINE D. BRIGSTON, et. al., dated the 1 day of DEC., 1980, and recorded in Real Property Book 82, beginning at page 272, of the records in the office of the Judge of Probate of Baldwin County, Alabama, and any other liens of first mortgages placed upon any of said lots for the purpose of constructing a residence or other improvement thereon and recorded in accordance with the laws of the State of Alabama, shall be, from the date of such recordation, superior to any and all liens provided for herein. BAY FOREST ESTATES PROPERTY OWNERS' ASSOCIATION may, if requested, execute instruments to subordinate any and all liens provided for herein to such liens of first mortgages.
16. BAY FOREST ESTATES PROPERTY OWNERS' ASSOCIATION may, at its option, by appropriate written instrument recorded in accordance with the laws of the State of Alabama, subordinate any and all liens provided for herein to the liens of other mortgages and/or other encumbrances.
17. The covenants, terms and conditions, restrictions and limitations herein contained are to run with the land and shall be binding upon all parties and all persons claiming under them and shall inure to the benefit of, and shall be binding upon their, and each of their, heirs, executors, administrators and assigns.
18. No lot shall be conveyed, devised, leased or demise at any time hereafter, except as being subject to the covenants, restrictions, liens and charges herein contained, and whether or not it be so expressed in the deeds or other instruments of conveyance of property, the same shall be absolutely subject to the covenants, restrictions, liens and charges herein contained which shall run with and be appurtenant to the land and every part thereof, as fully as if expressly contained in each and every contract and conveyance of, or concerning any part of, the land or the improvements to be made thereon.
19. If the parties hereto, or any of them, or any of their heirs, executors, successors, administrators or assigns, or any such future owner or owners of any lot or lots within the subdivision or any of their heirs, executors, successors, administrators or assigns, shall violate or

RECORDED 1738

attempt to violate any of the covenants, restrictions and/or limitations herein contained, it shall be lawful for any person or persons owning any real property situated in said subdivision, or BAY FOREST ESTATE PROPERTY OWNERS' ASSOCIATION, a Non-Profit Corporation, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate the same to prevent such person or persons from so doing, or to recover damages for such violations or attempted violations.

20. Invalidation of any one of these covenants and/or limitations, or any part thereof, by judgment or court order shall in no wise effect any of the other provisions which shall remain in full force and effect.
21. Any one or all of the covenants and restrictions hereinbefore set forth may be annulled, amended or modified at any time by an instrument executed by the owners of not less than eighty percent (80%) of the property in said subdivision, which said instrument shall be acknowledged by each of the persons signing the same and shall be filed and recorded in the office of the Judge of Probate of Baldwin County, Alabama, provided however, that no annulment, amendment or modification shall place an additional burden or restriction on any lot in said subdivision, the owner of which does not join in said amending instrument.

100-1024-117-9

IN WITNESS WHEREOF, BAY FOREST, INC., an Alabama corporation, has hereunto caused its corporate name to be signed by MONTY H. McVICKER, its President, and its corporate seal to be affixed and attested by GLYNN DWIGHT ST. ANDRE, its Secretary, both hereunto duly authorized, this the 3 day of DEC., 1980.

RAY FOREST, INC.
An Alabama Corporation

By: Monty H. McVicker
MONTY H. McVICKER
Its: President

ATTEST:

By: Glynn Dwight St. Andre
GLYNN DWIGHT ST. ANDRE
Its: Secretary

(Corporate Seal)

BFEPOA RESTRICTIVE COVENANTS Paragraph #7 existing...
No asbestos shingles, nor concrete block, nor metal shall be used on the exterior of any building or structure on any of said lots.

**WAIVER DECLARATION
SEPTEMBER 30, 2019**

We, the undersigned, affirm we are Members in good-standing of the Bay Forest Estates Property Owners Association (BFEPOA).

Whereas the "nor metal" provision of Paragraph #7, as the term may relate to metal roofs, metal gutters and metal downspouts, has never been enforced by the BFEPOA and its Directors to the best of anyone's knowledge,

And, Whereas metal roofs, metal flashing, metal gutters and metal downspouts are currently a part of the construction materials of at least XX residences within the BFEPOA,

We hereby Declare metal roofs, metal flashing, metal gutters and metal downspouts to be WAIVERED from the provision "nor metal" of Paragraph #7 of the Restrictive Covenants and therefore unenforceable for the duration of the Term of the Restricted Covenants (90 years remaining).

Given this Waiver, no Member of the BFEPOA is obligated to remove any metal roofing, flashing, gutters or downspouts that was approved by the City of Foley building code they may now have on their roof, nor are they prohibited from using such approved materials in the future.

For this Waiver Declaration to be overturned, a Court needs to determine that the named exclusions to Paragraph #7 are not Waivered by the lack of previous enforcement by the Board and the BFEPOA.

The BFEPOA, and its Board, is precluded from pursuing legal action in the matter of a Waiver. The Restrictive Covenants and its By-Laws do not provide the Board or the BFEPOA with any stated authority nor the financial means to pursue a legal action in this matter.

However, under the terms of the BFEPOA Restrictive Covenants and By-Laws, individual lot owners may pursue a Court action to try to overturn this Waiver. Paragraph #19 of the Restrictive Covenants states Individual property owners

can, on their own, "prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate the same to prevent such

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BALDWIN COUNTY, ALABAMA
HARRY O OLIVE, JR. PROBATE JUDGE
Filed Sept. 18/11/2019 10:17 AM
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2 Pages



persons or persons from doing so, or to recover damages for such violations or attempted violations."

Be advised, should one or more property owners choose to pursue a Court action to overturn this Waiver, we the undersigned are prepared to defend it.

In the meantime, metal roofs, metal gutters, and metal downspouts are hereby acceptable materials for residential construction in Bay Forest Estates.

Beginning with the date of this Waiver, reviews of proposed construction by the BFEPOA Architectural Review Committee, will reflect and abide by this Waiver.

We would remind all BFEPOA property owners metal roofs, metal gutters and metal downspouts are now, and would be in the future, subject to the laws of other jurisdictions governing BFEPOA property ownership including the City of Foley, Baldwin County, the state of Alabama, and the United States Federal Government.

Prepared by
Sharon A Friday,
Member at Large
BFEPOA

Respectfully submitted,

Leo & Sharon Friday

James & Sharon Lanus

Zach & Kellie Hood

(ORIGINAL SIGNATURES PROVIDED)

Sharon Friday

8.13.22

Attach to Covenants

BALDWIN COUNTY, ALABAMA
THE HUBBELL PROBATE JUDGE
Filed/ent. 4/13/2016 10:31 AM
TOTAL \$ 22.00
4 Pages

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SEPTEMBER 30, 2016



We, the undersigned, affirm we are Members in good-standing of the Bay Forest Estates Property Owners Association (BFEPOA). As such, we hereby Declare Paragraph #12 of the Restrictive Covenants as WAIVERED and therefore unenforceable for the duration of the Term of the Restricted Covenants (93 years remaining).

For this declaration to be overturned, the BFEPOA needs to obtain a Court determination that Paragraph #12 is not Waivered by the lack of previous enforcement by the Board and the BFEPOA.

In the meantime, by declaration of the undersigned BFEPOA Members, Paragraph #12 is Waivered and unenforceable unless and until a Court finds otherwise.

As such, no Member of the BFEPOA is obligated to remove any sign they may now have in their yard, nor are they prohibited from displaying one in the future. However, we would remind everyone such yard signs are now, and would be in the future, subject to the laws of other jurisdictions governing BFEPOA property ownership including the City of Foley, Baldwin County, the state of Alabama, and the United States Federal Government.

Should the BFEPOA choose to pursue a Court action, we the undersigned are prepared to defend the Paragraph #12 Waiver declaration.

...“The Board can ignore the request and elect not to enforce the covenant... and the Board would be forced to decide which covenants to enforce and which ones to ignore”. WRONG...

Paragraph #20 of the current BFEPOA Restrictive Covenants states *“Invalidation of any one of these covenants and/or limitations, or any part thereof, by judgment or court order shall in no way effect any of the other provisions which shall remain in full force and effect.”*

Paragraph #20 is known as a “Severability” clause. Aside from its obvious language, it means that should Paragraph #12 be Waivered, as it has been, the rest of the Restrictive Covenants are not affected.

To the Board's stated point, they, in fact, cannot pick and choose what covenants they enforce. They are required to enforce every covenant, and have been required to do so since the Restrictive Covenants were first agreed to in December 1980. Otherwise, unenforced covenant(s) will (or have already) become Waivered and is/are no longer enforceable.

However, given that Paragraph #12 has been Waivered, there is no Restrictive Covenant provision for Members displaying yard signs (of any kind) to violate.

--The Board's email describes "two other possible options exist". We believe there are actually three...

--The first option is mostly accurate; "owners can vote (80% approval required) to change the sign covenant or any other covenant". Properly stated, however, such a vote would add a new "yard sign" covenant since the original one has been Waivered and technically no longer exists.

--The second one, legal action by individual lot owners, is correct. It is the only legal recourse authorized by the Restrictive Covenants or By-Laws outside of liens.

This course of action against yard sign displayers is provided for in Paragraph #19 of the Restrictive Covenants. Individual property owners can, on their own, *"prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate the same to prevent such persons or persons from doing so, or to recover damages for such violations or attempted violations."*

We acknowledge the Complainant who wrote the "specific written demand requesting enforcement of the covenant and removal of inappropriate signs in the neighborhood", and other like-minded BFEPOA property owners, can sue in a Court of Law those of us with yard signs (of any kind) to attempt to have them removed.

Be advised though, should the Complainant, or other "person or persons owning property situated in said subdivision", elect to sue those of us with yard signs (any kind of yard sign), we, the undersigned, are prepared to defend the declaration that Paragraph #12 of the Restrictive Covenants is Waivered.

--The third option is to continue to do what the BFEPOA and Board has been doing for these past many decades relative to Paragraph #12, **NOTHING**. **We strongly advocate this option.**

Our second big problem is that the "complaint" is a transparent attempt to restrict political free speech. We are all far too aware of this common tactic among today's American Socialists...eliminate all opinions that disagree with their own with disingenuous allegations with which they can manipulate the legal system or cause weaker people to capitulate.

We assume the writers of the original Covenants and the original BFEPOA Board were not incompetent. The inclusion of a severability clause and the exclusion of a waiver clause we believe was intentional. Such combination afforded the Restrictive Covenants with a flexibility that allowed future generations of BFEPOA homeowners to ignore provisions that may no longer apply or represent constraints homeowners no longer want to impose on themselves, without jeopardizing the remainder of the document.

For example, since this yard sign issue was raised, several folks have cited the restriction in Paragraph #7 that "no...metal shall be used on the exterior of any building or structure on any of said lots". They ask "what about metal roofs?" Exactly. For decades the matter of metal roofs has never been enforced. We expect that should anyone complain about a neighbor's metal roof, the metal roof can be defended with the same argument as that contained herein.

—"The Board can...then pursue legal action against all owners who refuse to comply." WRONG...

One needs to tie together the provisions contained in the Restrictive Covenants and those contained in the BFEPOA By-Laws to know what enforcement actions the BFEPOA and its Board are authorized to take as an organization.

The Restrictive Covenants and its By-Laws do not provide the Board or the BFEPOA with any stated authority nor the financial means to pursue a legal action in this matter.

The BFEPOA By-Laws direct the Board to "See that the Restricted Covenants are complied with...". However, between the Restrictive Covenants and the By-Laws, actual *legal action* by BFEPOA and its Board is authorized for one issue, and one issue only: Paragraph #14 states "*All liens herein provided for shall be enforceable by appropriate legal proceedings, in the manner provided by law*". That's it...to file liens and to collect them.

—Other Enforcement Options...

The only other enforcement authority the BFEPOA and its Board has is provided in the By-Laws. Article VI, #8, states that members who "*violate the Restrictive Covenants or other rules of the BFEPOA*" may have their "*Privileges (of BFEPOA membership) denied*".

To invoke such a "denial of privileges" requires a high bar...

—First, a 2/3 vote of the Board of Directors.

—Second, if appealed in a meeting of the membership, a majority of those in attendance "*shall confirm, deny or amend the action of the Board*".

—If a denial of privileges is confirmed, such denial has the right to be reviewed annually.

Complaining about yard signs as "offensive" and "untidy" is truly petty as some have recognized. Defending political free speech is not. And, doing so within the bounds of the historically enforced, or unenforced, provisions of our neighborhood's Restrictive Covenants is everyone's right.

The "politically correct" term "offensive" is the current vehicle for socialist censorship of thought or expression that does not agree with theirs. Unfortunately, the basis for the complaint in this instance has been Waivered.

We, the undersigned, given the Waiver of Paragraph #12, will continue to exercise our right to publicly display our political opinion in our front yards. We invite our liberal friends to do so also, just as they have done in the past with their unchallenged Obama signs.

PS... Why in the world would our Board communicate their "position and recommendations" to all BFEPOA Members, and then tell us to respond "only to the Board members"? We do not abide by such censorship. This is an open email letter to all the good people and friends of Bay Forest Estates.

Respectfully,

Jay & Sharon Lanius

Richard & Judy Hightower - 8451 FOREST LN, FOLEY AL
Leo & Sharon Friday - 8425 BAY VIEW DR, FOLEY, AL
Zach & Kellen Hood - 24450 BAY FOREST DR, FOLEY, AL
BARBARA BLAGE & DAN KILROY - 8398 BAY VIEW DR, FOLEY, AL
GREGORY & MELODY MIGAS - 8471 FOREST DR, FOLEY, AL
Jay & Sharon Lanius - 8188 BAY VIEW DR, FOLEY, AL

SEPTEMBER 30, 2016