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10 PGS : AMENDED MASTER DEED

BATCH: 303952

04/28/2015 - 10:49 AM

VALUE 0.00

MORTGAGE TAX 0.00

TRANSFER TAX 0.00

RECORDING FEE 55.00

DP FEE 2.00

REGISTER'S FEE 0.00

TOTAL AMOUNT 57.00

STATE OF TENNESSEE, SEVIER COUNTY

CYNDI B LOVEDAY

REGISTER OF DEEDS

This instrument was prepared by:  
 Melanie E. Davis, Attorney  
 329 Cates Street  
 Maryville, Tennessee 37801

FIFTH AMENDMENT TO MASTER DEED G.  
 ENGLISH MOUNTAIN CONDOMINIUM ASSOCIATION, INC.

THAT WHEREAS, the English Mountain Condominiums were established by a Master Deed recorded originally in the Register of Deeds Office for Sevier County, Tennessee, at Deed Book 262, Page 67 as subsequently amended, and

WHEREAS, there have been multiple subsequent amendments to the Master Deed but none have affected Article VII, Amendment to Master Deed, which provides that the Master Deed may be amended at any regular or special meeting of the apartment owners of this condominium called or convened in accordance with the By-Laws by affirmative vote of the owners owning not less than 2/3rds of the apartments, and

WHEREAS, all amendments shall be recorded and certified, and

WHEREAS, the apartment owners determined that amendment to the Master Deed was necessary, and

WHEREAS, the Master Deed called for the formation of English Mountain Condominium Association, Inc. which is a Tennessee not-for-profit corporation and is the condominium association for English Mountain Condominiums with duly elected officers, and

WHEREAS, a vote on written ballot was conducted pursuant to T.C.A. § 48-57-108 with quorum achieved, and the members participating approved by 2/3rds affirmative vote, this amendment to the Master Deed and

WHEREAS, a Certificate of the Secretary of the Association documenting said mail-in ballot vote is attached hereto as Exhibit A, and

WHEREAS, such amendment included a prior amendment of Master Deed and By-Laws recorded July 14, 1998, and of record in Deed Book 632, Page 64 in the Register of Deeds office for Sevier County, Tennessee, and

WHEREAS, the Master Deed as amended is hereby further amended as follows:

1. Article II, Sections (O) and (P), of the Master deed are added as follows:

(O) Natural Person. A Natural Person is a human being as opposed to a corporation, trust or other legal entity. A corporation that owns an apartment can appoint a Natural Person as a spokesman for its apartment and that person can transact business on behalf of the entity as if said person is an Owner.

(P) Member in Good Standing. A Member in Good Standing is an Owner and a Natural Person who has met his or her obligations (or the entity he or she represents has met its obligations) with regard to payments due to the Association, including, but not limited to, general assessments, specific assessments, and/or special assessments, has not had privileges suspended or revoked and is in substantial compliance with the Master Deed, By-Laws and Rules and Regulations of the Association.

2. Article VII, sub-section (B), of the Master Deed is hereby amended in addition to the amendment recorded on July 14, 1998, to state as follows with the prior language repealed and replaced:

(B) The share of the general and limited common elements appurtenant to each apartment is 1/72nd and each apartment having an equal share of the general and limited common elements.

3. Article IX, sub-sections 6, 7, and 8 of the Master Deed are hereby added as additional powers of the Board under (b):

(6) The Power To Take Legal Action. The Association through its Board of Directors shall have the right to take legal action if necessary to enforce the provisions of the Master Deed, By-Laws and the properly adopted Rules and Regulations for the Condominium property. If the Association takes legal action to require compliance with the governing

documents, it shall be awarded its reasonable attorney's fees and costs by the owner who is found to be in violation.

(7) The Power To Revoke Privileges For Owners Who Are Not Member In Good Standing. The Association reserves the right to revoke privileges and/or suspend voting rights of any person who is not a Member in Good Standing.

An owner who is other than a Member in Good Standing cannot run for office or director position in the Association, cannot cast a vote in any Association matters, but is permitted to access general and limited common elements, except that such owner may be prohibited from using the swimming pool.

(8) Self Help. The Association through its Board of Directors shall have the power to engage in self help and make repairs deemed necessary to prevent further damage to apartments or general common elements or limited common elements, to stop flooding or to mitigate hazardous conditions in the Condominium property. The Association through its Board of Directors further can act when failure to make prompt repair could lead to a deteriorating condition so as to promptly and properly address any situation that could adversely affect the well-being, health, safety, and welfare of the owners, general common elements, limited common elements and any apartments affected. Except in an emergency, an attempt will be made to notify the owner of an apartment from which the cause of the damage originates. Such owner will be given an opportunity to adequately address the situation or problem in a timely manner. The Association will only act in the event of a failure of such apartment owner to promptly and properly act. Should the owner not promptly or properly act, the Association shall have the authority but not the duty to make all necessary repairs, to take corrective action, to mitigate damage, and to alleviate the further deterioration of the Condominium property at the expense of the owner of the apartment causing the damage. The Association in such event shall have the authority to make a specific assessment against the apartment causing the damage.

4. Article XIII, sub-section (C), of the Master is hereby amended as follows with the prior language repealed and replaced:

(C) Assessments and installments made paid within ten (10) days of when due shall bear interest at a compound rate of 18% per annum (1.5% per month) until paid. Additionally, a late fee in an amount to be determined by the Board of Directors and not less than \$20.00 per month shall be applied. The Association shall furnish to the mortgage holder of any apartment upon its written request notification of a default in assessment payments of the owner whose apartment is encumbered by said mortgage.

5. Article XIII of the Master Deed is amended to add sub-section (G) as follows:

(G) In addition to regular assessments, the Board may enact specific or special assessments against apartments consisting of less than all apartments within the Condominium property as follows:

(1) Owner's Obligation. The owner of an apartment shall be liable for damage to any general common elements or limited common elements as a result of neglect, negligence or failure to pursue ordinary due diligence expected to maintain his or her apartment (collectively "Negligence or Neglect").

(2) Damage. If damage to the general common elements or limited common elements caused due to the Negligence or Neglect or similar activity specified in Paragraph (1) above is not timely mitigated, the Association through its Board of Directors has the right to seek self help to mitigate ongoing damage, take action to repair such damage or deterioration to common area or limited common area, and to issue specific assessments to the apartment owner involved in the Negligence or Neglect.

(3) Specific Assessments. The Board shall have the power to levy a specific assessment against a particular apartment to cover costs incurred in bringing an apartment into compliance with the terms of the Master Deed, By-Laws, or Rules and Regulations for costs incurred in the consequence of

Negligence or Neglect of an apartment owner or occupants of the apartment, their licensees, invitees, or guests provided that the Board shall give the offending owner a reasonable opportunity to come into compliance, written notice and opportunity for a hearing prior to levying a specific assessment.

(4) Special Assessments. The Board shall have the power to levy a special assessment to recover or obtain the costs incurred for any special project undertaken by the Association on behalf of one or more units, the costs of which shall be assessed to the apartments involved. Special assessments shall require written approval of 75% of the affected apartments.

(5) Specific and Special Assessments. Specific and special assessments shall be collected in the same manner as any other assessments.

(6) Assessment Of Any Costs Incurred. Any costs, fees, expenses, and/or professional service fees including, but not limited to, attorney's fees and costs incurred by the Association while taking such action shall be paid by the apartment owner causing such costs, fees or expenses to be incurred and added to the specific or special assessments.

6. Article XX of the Master Deed is hereby deleted and replaced as follows:

Article XX. Association Rights. Notwithstanding any of the provisions herein, the Association is empowered to acquire, foreclose, purchase, hold, alter, renovate, and/or sell apartments in the Condominium property. The Association through its Board of Directors shall have the right to transact any business necessary to rent, lease, mortgage or consummate the sale of said apartment.

7. A new Article XXVII is added to the Master deed as follows:

Leases and Rentals of Apartments. The Bylaws shall provide for restrictions on the lease and rentals of Apartments including, but not limited to, a restriction limiting the total rentals or leases of Apartments to less than a specified percentage of the total number of Apartments in the Condominium regime. Further, the Board can adopt rules and regulations in the bylaws and otherwise by separate

document relating to and regulating such lease or rentals of Apartments. All rentals and leases of Apartments shall conform to such bylaws, rules and regulations.

8. A new Article XXVIII Improvements, Construction, and Structural Modifications is added to the Master deed as follows:

**IMPROVEMENTS, CONSTRUCTION, AND STRUCTURAL MODIFICATIONS:**

(A) This Article refers to repairs, alterations, and/or construction activity that would require a permit be issued by the city or county to proceed; that is substantive, would cut into the roof, would cost more than \$5,000, would involve alterations or changes to support beams or load structure, affect any foundation element, involve electrical distribution, involve the main water supply or waste water plumbing; and would normally require the services of licensed personnel or contractors. Any alteration to the exterior of a building, common element and/or limited common element (such as a new stairway) further would be included.

(B) The requirements of Article XXVIII do not include refurbishment or replacement of already existing, worn, or non-functional appliances, lighting fixtures, existing plumbing fixtures, floor coverings, interior/exterior doors and windows, and/or wall coverings that are non-structural (support beams); located within and affecting only the Apartment of an owner, that would not affect another Apartment, common element, or limited common element. The items defined within Article XXVIII (B) (this paragraph) may be accomplished by an Owner, and/or by an appropriately insured and/or bonded 'handyman' or general contractor. It is advisable to notify the Association office so as to facilitate deliveries and persons contracted to perform the service presenting themselves at the gate.

(C) Any Owner wishing to make structural/electrical/plumbing changes within his or her Apartment, as set forth in Article XXVIII (A) above, must first notify the Managing Director and/or the Chairman of the Buildings & Grounds Committee, in writing and also utilizing the appropriate application form. The application and any supporting documentation, drawings, plans, etc. detailing the entire project being requested (including plans from a structural engineer, architect, or the equivalent; as acceptable by the Buildings & Grounds Committee) shall be submitted and approved prior to any work being started. Any work contemplated

that involves a load bearing wall, foundation, 6 by 6 structural support beams, or structural modifications to a plumbing-access wall, and main electrical distribution shall be reviewed by a licensed, professional structural engineer or architect prior to any approval being granted.

(D) The Owner must also present the name of the licensed, bonded contractor, approved to do work on Association property; together with copies of licenses(s), and insurance coverage and/or bond; if not already on file in the Association office; and of the qualifications of the person or persons slated to do the work to be done. The Office Manager or Managing Director will then pass the request, along with the aforementioned documents, to the Building and Grounds Committee for review.

(E) The Buildings and Grounds Committee will review the request, together with all submitted documentation, and either approve the project or deny it. The Buildings and Grounds Committee shall have the right to retain the services of a licensed, professional structural engineer or architect, with the knowledge of and at the expense of the applicant (Owner), to review the project, should there be any structural, safety, health, or other questions about the project being contemplated.

(F) If the modification project proposal, defined in Article XXVIII (A) above, is denied, the request (application) form will be so noted and returned through the Office Manager, Managing Director, or chairman of the Buildings and Grounds Committee, to the requesting owner. The notification of denial will state the reason(s) for the denial, and any steps the owner can take to rectify the deficiency or concern as noted; and make application for a re-review of the project. Denials can be appealed to the Board of Directors.

(G) If accepted, the Buildings and Grounds Committee will introduce the request to the Board of Directors, in a timely fashion for their approval. The Office Manager and/or the Managing Director will maintain a copy of all requests and accompanying documents for modification projects, as defined in Article XXVIII (A) above, in the Association office and all approved projects, together with all documentation, will be made available for review by any Owner. For a project involving the exterior of an apartment or common element, all approved projects shall contain all details concerning the project, including the approved contractor(s), materials, location, color, etc. which must be adhered to by any

other owner seeking to make the same change. Once approved by the board of Directors, said approval of any proposed project shall be entered into the minutes. A NOTICE of approval, listing the terms of the approval and any limitations or restrictions, shall be drawn up by the Association Secretary and presented to the Owner. Any project approval granted, shall not be valid until ALL appropriate permits are obtained and posted as stipulated by the document, as may be required by Sevier County, or any other governing body, as appropriate to the project. No construction or work, as described in Article XXVIII (A), should commence until all approvals set forth above are obtained.

(H) The Managing Director and/or Chairman of the Buildings and Grounds Committee reserve the right to request "as built plans" for any approved project, indicating all structural, electrical, and plumbing modifications, and their particulars, to be kept on file as being the most recent status of a particular Apartment.

(I) The Association and the Board of Directors shall not have the duty to investigate any contractor or worker who is suggested or approved under this paragraph to perform work in the Condominium property and shall have no duty to insure the quality of the work or the suitability or qualifications of such contractors or worker. The Association and Board of Directors or any agents or representatives thereof have no duty further to determine whether the insurance, licenses and other material submitted to them are correct, proper, in effect, or sufficient.

9. WHEREFORE, the above amendments were adopted by a vote of at least 2/3rds of the owners of the apartments as provided in the Master Deed as stated on the attached.



ENGLISH MOUNTAIN CONDOMINIUM  
ASSOCIATION, INC.:

BY: Marguerite Sheehan  
Rita Sheehan, PRESIDENT

ATTEST:

T.P. Cartier  
Thomas P. Cartier, SECRETARY

STATE OF TENNESSEE       )  
COUNTY OF SEVIER       )

Before me, a Notary Public in and for said County, personally appeared MARGUERITE SHEEHAN, with whom I am personally acquainted, and who, upon oath, acknowledged himself/herself to be the President of ENGLISH MOUNTAIN CONDOMINIUM ASSOCIATION, INC., the within named bargainor, a corporation, and that he/she as such President, being authorized so to do, executed the within instrument for the purposes therein contained by signing the name of the corporation by himself/herself as President.

WITNESS my hand and official seal at office this 18<sup>th</sup> day of April, 2014. 5

My Commission Expires:

My Commission Expires:  
December 21, 2016

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**REGISTER OF DEEDS:** Please cross reference the recording of this instrument on the face of the instruments of record in Deed Book Vol. 262, Page 67 and Deed Book Vol. 632, Page 64.

**EXHIBIT A**  
**CERTIFICATE**

I, Thomas Paul Cartier, hereby certify that I am the duly elected Secretary of the Board of Directors of the English Mountain Condominium Association, Inc


A mail-in ballot vote was conducted pursuant to T.C.A. § 48-57-108 and achieved the following result regarding the attached Fifth Amendment of Master Deed:

Total Ballots received: 59  
Quorum: 48  
Yes Votes: 50  
No Votes: 7  
Abstentions: 2

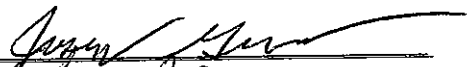
I hereby certify that proper procedures pursuant to T.C.A. § 48-57-108 were adhered to, and that the 2/3<sup>ds</sup> affirmative vote requirement of owners, as set forth in Article VII of the Master Deed pertaining to amendment, was achieved.


I certify these actions in my role as Secretary of the Association.

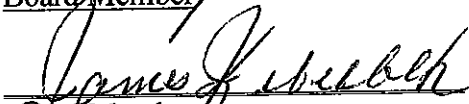
This 18<sup>th</sup> day of April, 2015.


  
\_\_\_\_\_  
**SECRETARY**


**APPROVED:**


  
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**Board Member**

  
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**Board Member**

  
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