

10/3/2022 11:27 AM

KAREN E. RUSHING

CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA

SIMPLIFILE

Receipt # 2920540

This instrument was prepared by and after recording return to:  
Steven M. Falk, Esq., Falk Law Firm, P.A.  
7400 Tamiami Trail North, Suite 103  
Naples, Florida 34108  
(239) 596-8400

**AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR CYPRESS FALLS AT THE WOODLANDS**

THIS AMENDMENT is executed by **CENTEX HOMES**, a Nevada general partnership (the "Declarant"). On July 29, 2005, the Declarant recorded the Declaration of Covenants, Conditions and Restrictions for Cypress Falls at the Woodlands as Instrument #2005167077, of the Public Records of Sarasota County, Florida (the "Declaration"). In Article XX, Section 20.1 of the Declaration, the Declarant reserved the right to amend the Declaration until the termination of the Class "B" Control Period. The Class "B" Control Period has not terminated.


NOW THEREFORE, pursuant to Article XX, Section 20.1 of the Declaration, the Declarant hereby amends the Declaration as set forth in Exhibits "A" and "B" attached hereto.


IN WITNESS WHEREOF, the Declarant has executed this Amendment effective as of the day and year written below.

Witnesses:

CENTEX HOMES, a Nevada general partnership

By: Centex Real Estate Company, LLC, a  
Nevada limited liability company, its  
Managing General Partner

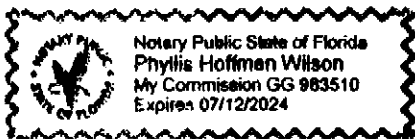
  
Witness Name: Christopher Porcino

By:   
Michael Woolery  
Its: Vice President-Land Acquisition  
Southwest Florida Division

  
Witness Name: STEVE PLUTKE

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of September, 2022, by (  ) physical presence or (  ) online notarization, by Michael Woolery, as Vice President-Land Acquisition, Southwest Florida Division of Centex Real Estate Company, LLC, a Nevada limited liability company, the Managing General Partner of Centex Homes, a Nevada general partnership. He is personally known to me.



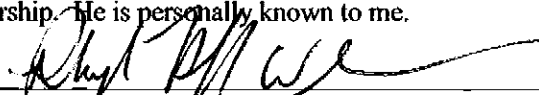
  
NOTARY PUBLIC  
Name: Phyllis Hoffman Wilson  
My Commission Expires: 7/12/24

EXHIBIT "A"

Additional language indicated by underlining.  
Deleted language indicated by ~~hyphens~~.

The following definitions in Article II of the Declaration are amended as follows:

"Association": Cypress Falls at The Woodlands Homeowners Association, Inc., a Florida not-for-profit corporation, its successors and assigns. The Association may also be referred to in the Governing Documents as the "HOA".

"Architectural Review Board" or "ARB": The committee established, upon delegation or termination of Declarant's authority under Article IV, to review plans and specifications for the construction or modification of improvements and to administer and enforce the architectural controls described in Article IV. The terms Architectural Review Board and ARB may also be referred to in the Governing Documents as the "ARC".

Sections 4.2, 4.3, 4.4, 4.5, 6.1, 6.2, 6.3 and 8.9 of the Declaration are amended as set forth in Exhibit "B" attached hereto.

# EXHIBIT " B "

## 4.2. Architectural Review.

(a) ~~By Declarant, Declarant~~ The Board of Directors shall have exclusive authority to administer and enforce architectural controls and to review and act upon all applications for architectural and other improvements within the Community, ~~during the Class B Control Period. The Board of Directors~~ Declarant may designate one or more Persons to act on its behalf in reviewing any applications. ~~In reviewing and acting upon any request for approval, Declarant or its designee acts solely in Declarant's interest and owes no duty to any other Person. Further, the Declarant is not required to file any applications for architectural or other improvements within the community while in the Development and Sale Period.~~

~~The Board of Directors~~ Declarant may from ~~time to time~~ time to time delegate or assign all or any portion of its rights under this Article to any other Person or committee, including the ~~ARC~~ Architectural Review Board. Any such delegation shall be in writing, shall specify the delegated responsibilities, and shall be subject to (i) ~~Declarant's~~ The Board of Directors' right to revoke such delegation at any time and reassume its prior jurisdiction, and (ii) Declarant's right to veto any decision which it determines, in its discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of other entities shall be limited to such matters as Declarant specifically delegates.

(b) Architectural Review Board ~~Committee (ARC).~~ The ARC ~~Upon Declarant's delegation or upon expiration or termination of Declarant's rights under this Article, the Association, acting through the ARB,~~ shall assume jurisdiction over architectural matters. When appointed, the ~~ARB~~ ARC shall consist of at least three, but not more than five, persons. Members of the ~~ARC~~ ARC need not be Members of the Association-HOA or representatives of Members, and may, but need not, include architects, engineers, or similar professionals, who may be compensated in such manner and amount, if any, as the Board of Directors may establish. The ARC ~~members~~ shall serve and may be removed and replaced ~~in at the Board of Directors's~~ discretion.

~~Unless and until such time as Declarant delegates any of its reserved rights to the ARB or Declarant's rights under this Article terminate, the Association shall have no power over matters governed by this Article IV.~~

(c) ~~Fees~~ Assistance. The Reviewer ARC, with the Board of Directors' approval, may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees may include, without limitation, the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals the ARC Reviewer employs or with whom it contracts. The Board of Directors may include the compensation of such Persons in the Association's HOA's annual operating budget.

## 4.3. Guidelines and Procedures.

(a) Architectural Guidelines. ~~Declarant~~ The Board of Directors and/or ARC may prepare and make available the initial Architectural Guidelines, which may contain general provisions applicable to all of the Community as well as specific provisions that may vary according to location within the Community or product type. The Architectural Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the Reviewer ARC. The Architectural Guidelines are not the exclusive basis for the Reviewer's ARC's decisions, and compliance with the Architectural Guidelines does not guarantee an application's approval.

~~The Board of Directors, if the same exist, Declarant shall have sole and absolute and full authority to amend the Architectural Guidelines, from time to time, during the Development and Sale Period. Declarant's~~ The Board of Directors' right to amend shall continue even if its reviewing authority is delegated to the ARC, unless Declarant it also delegates the power to amend to the ARC. ~~Upon termination or delegation to the ARB of Declarant's right to amend, the Board may amend the Architectural Guidelines, subject to Declarant's veto right under Section 4.2(a) (if still applicable).~~

If the same exists, a Amendments to the Architectural Guidelines shall be prospective only. They shall not require modifications to or removal of structures, improvements, and other things previously approved once the approved construction or modification has begun. However, any new work or improvements must comply with the Architectural Guidelines as amended.

In ~~At Declarant's~~ the Board of Directors' discretion, the Architectural Guidelines may be recorded, in which event the recorded version, as it may be amended from time-to-time, shall control in the event of any dispute as to which version of the Architectural Guidelines was in effect at any particular time.

(b) ~~Procedures.~~ Unless the Architectural Guidelines provide otherwise, no construction-activities or other activities described in Section 4.1 may begin until a request is submitted to and approved in writing by the ~~Reviewer~~ARC. The request must be in writing and be accompanied by plans and specifications, and other information the ~~Reviewer~~ARC and/or the Architectural Guidelines require. Plans and specifications shall show, as applicable, site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction or other activity as the ~~Reviewer~~ARC deems relevant.

In reviewing each submission, the ~~Reviewer~~ARC may consider any factors it deems relevant, including, without limitation, harmony of the proposed design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that aesthetic determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements. The ~~Reviewer~~ARC shall have the discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment, and such determinations are not subject to review so long as they are made in good faith and in accordance with the required procedures.

The ~~Reviewer~~ARC shall make a determination on each application within 45 days after receipt of a completed application and all other information the ~~Reviewer~~ARC requires. The ~~Reviewer~~ARC may permit or require that an application be submitted or considered in stages, in which case, a final decision shall not be required until 45 days after the final, required submission stage. The ARC ~~Reviewer~~ may (i) approve the application, with or without conditions; (ii) approve a portion of the application, with or without conditions, and disapprove other portions; or (iii) disapprove the application. The ARC ~~Reviewer~~ shall notify the applicant in writing of a final determination on any application. In the case of disapproval, the ARC ~~Reviewer~~ may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

After the initial 45-day period has elapsed, if the Owner has not received notice of the ~~ARC~~Reviewer's determination, the Owner may make a second written request for approval of the plans previously submitted which shall be marked "Second Request". If the ~~Reviewer~~ARC fails to respond within seven business days from receipt of the Second Request, approval shall be deemed given. However, no approval (or improvement governed by such approval), whether expressly granted or deemed granted, shall be inconsistent with the Architectural Guidelines or other Governing Documents unless a written variance has been granted pursuant to Section 4.5.

Notwithstanding anything to the contrary in this Declaration or the By-Laws, Owners shall send any such "Second Request" via the U. S. Postal Service, certified mail, return receipt requested, or by commercial overnight carrier that obtains a signed receipt upon delivery. A Second Request shall be deemed made, and the 7 business ~~day~~time period shall commence running, on the date of the ~~Reviewer's~~ARC's actual receipt of the Second Request, as evidenced by its signature on the return receipt provided by the U. S. Postal Service or in the records of the overnight carrier, as applicable.

As part of any approval, the ARC Reviewer may require that construction, landscaping, and other approved activities in accordance with approved plans commence and be completed within a specified time period. If such actions do not commence within the required period, the approval shall expire and the Owner must reapply for approval before commencing any activities within the scope of this Article. Once commenced, such activities must be diligently pursued to completion. All elements of the approved activities and/or plans shall be completed within one year of commencement unless a shorter or longer period is otherwise specified in the notice of approval or the Architectural Guidelines, or unless the ARC Reviewer, in its discretion, grants an extension in writing. If approved work is not completed within the required time, it shall be in violation of this Article and shall be subject to enforcement action by the Association HOA or Declarant.

Any approvals granted under this Article are conditioned upon completion of all elements of the approved work, unless written approval to modify any application has been obtained.

Declarant The Board of Directors or the ARCB, by resolution, may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

#### 4.4. No Waiver of Future Approvals.

Each Owner acknowledges that the people reviewing applications under this Article will change from time-to-time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be feasible to identify objectionable features until work is completed, at which time, it may or may not be unreasonable to require that such objectionable features be changed. However, the ARC Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the ARC Reviewer's right to withhold approval of similar applications, plans, or other matters subsequently or additionally submitted for approval.

#### 4.5.4.5 Variances.

The Reviewer ARC may authorize variances from compliance with the Architectural Guidelines and any procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require or permit. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) prevent the ARC Reviewer from denying a variance in other circumstances. A variance requires the Board of Directors Declarant's written consent during the Development and Sale Period and, requires the Board's written consent.

### Article VI The Association (HOA) and its Members

#### 6.1. Function of Association the HOA

~~6.1.~~

The Association HOA is the entity responsible for management, maintenance, operation, and control of the Common Maintenance Areas. The Association HOA also has primary responsibility for administering and enforcing the Governing Documents. The Association HOA shall perform its functions in accordance with the Governing Documents and Florida law. The Board of Directors shall be responsible for management of the Association HOA and may contract with a property manager for such purposes. The Board of Directors is appointed or elected as provided in the By-Laws. Membership in the Association HOA is appurtenant to and may not be severed from the Lot. The rights and obligations of a Member may not be assigned or delegated except as provided in this Declaration, the Articles.

of Incorporation, or By-Laws of the Association HOA, and shall automatically pass to the successor-in-interest of any Owner upon conveyance of such Owner's interest in the Lot.

6.2. Membership.

~~6.2.~~

The Association initially shall have two classes of membership, Class "A" and Class "B." Class "A" Members are all Owners except the Class "B" Member. The sole Class "B" Member shall be Declarant. The Class "B" membership shall terminate upon the earlier of (i) within 90 days of the conveyance of 90% of Lots to homeowners other than Declarant to Class "A" Members; (ii) \_\_\_\_\_ which is seven (7) years from date of recording the Declaration; or (iii) earlier, in its discretion, if Class "B" Members so determines. \_\_\_\_\_ If a Lot is

Notwithstanding the above, there shall be only one Class "A" membership per Lot. If a Lot is owned by more than one Person, each co-Owner shares the privileges of the membership, subject to reasonable Board of Directors' regulation and the voting restrictions described in Section 6.3 (a) and in the By-Laws. Co-Owners are jointly and severally obligated to perform the responsibilities of an Owner. The membership rights of an Owner that is not an individual (e.g., a corporation) may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in a written instrument provided to the Association's HOA's Secretary.

6.3. Voting.

~~6.3.~~

(a) ~~Class "A".~~ Class "A" Members have one equal vote for each Lot they own, except that there is only one vote per Lot. No vote shall be exercised for any property which is exempt from assessment under Section 8.8.

In any situation where there is more than one Owner of a Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association HOA in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

(b) ~~Class "B".~~ The Class "B" Member shall not have any specific number of votes, but may appoint a majority of the Board members during the Class "B" Control Period, as specified in the By-Laws, and may exercise the additional rights specified throughout the Governing Documents.

Upon termination of the Class "B" membership, Declarant shall be a Class "A" Member entitled to one Class "A" vote for each Lot it owns.

## 8.9 Initial One-Time Assessment.

The Association HOA hereby establishes an initial one-time assessment (the "Initial Assessment") applicable to each Lot in such amount as determined in the Board's of Directors' discretion, not to exceed 100% of the full Regular Assessment per Lot levied for the year in which the Initial Assessment is due and payable. The Initial Assessment shall become due and payable upon first occupancy of such Lot as a place of residence by Class "A" Member or upon the first conveyance of the Lot with a completed dwelling, whichever occurs first, and the Initial Assessment shall become due and payable upon all subsequent transfers of ownership of a Lot from a Class "A" Member to the Class "A" Member that is the successor in title, except that the Initial Assessment shall not be due and payable upon a transfer of title to a mortgagee or the HOA resulting from a foreclosure sale or deed in lieu of foreclosure. Such Initial Assessment may be used to fund the Association HOA's initial start up costs, other operating expenses, contribute to reserves, provide financial security required in connection with maintenance of mitigation areas and fund expenses incurred in connection with any governmental permits that are transferred or transferable to the Association HOA, all in the Board's of Directors' discretion. The Initial Assessment may be referred to by another name, such as Working Capital Contribution, Working Fund Contribution or some other name, in marketing and disclosure materials.

~~No further Initial Assessment shall be due for any subsequent transfer of ownership of any Lot from one Class "A" Member to successor Class "A" Member.~~