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10-30-2020
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BY: KELLIE GILES
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2020045924
NEW HANOVER COUNTY, NC
TAMMY THEUSCH BEASLEY
REGISTER OF DEEDS

NC FEE \$26.00

**DECLARATION OF RESTRICTIVE COVENANTS
FOR 309 S. 4TH STREET TOWNHOMES**



Prepared by and return to:
JOHNSON & MOORE, P.A.
1328 N. Lake Park Blvd., Suite #104
Carolina Beach, NC 28428

Brief Description for index: **Bowfin Townhomes, Map Cabinet 66, Page 287**

This Declaration of Restrictive Covenants for 309 S. 4th Street Townhomes (this "Declaration") is made this 30th day of October 2020, by TOO Construction Company, Inc. ("TOO").

WITNESSETH:

WHEREAS, TOO is the owner of certain property located in New Hanover County, North Carolina, and more particularly described as:

BEING all of Townhomes #309-A and #309-B as shown on a plat thereof entitled "Townhouse Plat for 309 S. 4th Street Townhomes" dated October 15, 2020 and recorded in Map Book 68, Pages 348-349 in the office of the New Hanover County Register of Deeds. (the "Property").

NOW THEREFORE, TOO hereby declares that the Property shall be held, sold, used, and conveyed subject to the following restrictions, covenants, and conditions which shall run with the title to the Property subject to this Declaration. This Declaration shall be binding upon all parties having any right, title or interest in any portion of the Property.

DEFINITIONS

- A. "Owner": One or more Persons who hold the record title to any Townhome, but excluding in all cases any party holding an interest merely as security for the performance of any obligation. If more than one Person owns a Townhome, all such Persons shall be jointly and severally obligated to perform the responsibilities of such Owner.
- B. "Person": A natural person, partnership, a corporation, a partnership, a limited liability company, a fiduciary acting on behalf of another person or any other legal entity.
- C. "Townhome" shall mean either 309-A or 309-B as shown on the plat recorded in Map Cabinet 68, Page 348, Office of the Register of Deeds of New Hanover County, North Carolina. The term "Townhomes" shall refer to both 309-A and 309-B.

PARTY WALLS

- A. **General Rules of Law to Apply.** The party wall built as a part of the original construction of the Property shall be placed on the dividing line between the Townhomes, and to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage arising out of negligence or willful acts or omissions shall apply thereto.
- B. **Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such damage.
- C. **Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty, the Owner must restore it and if the other Owner makes use of the wall, the other Owner shall contribute to the cost of restoration thereof in proportion to such damage, without prejudice, however, to the rights of any such Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.
- D. **Weatherproofing.** Notwithstanding any other provision of this Section, an Owner who is by his negligence or willful acts causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.
- E. **Right to Contribution Runs with Land.** The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.

IN TESTIMONY WHEREOF, TOO Construction Company, Inc. has caused this instrument to be duly executed as of the day and year first above written.

TOO CONSTRUCTION COMPANY, INC.

BY: Michelle Leveridge Shingleton (SEAL)
MICHELLE LEVERIDGE SHINGLETON, PRESIDENT

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

I certify that **Michelle Leveridge Shingleton** personally came before me this day and acknowledged that she is the President of **TOO CONSTRUCTION COMPANY, INC.**, a North Carolina corporation, and that by authority duly given and as the act of such entity, signed the foregoing instrument in its name on its behalf as its act and deed.

This 30th day of October, 2020.

(NOTARY SEAL)

Morgan L. Fowler
Morgan L. Fowler, Notary Public
(Notary's printed or typed name)
My Commission Expires: 01/09/2025

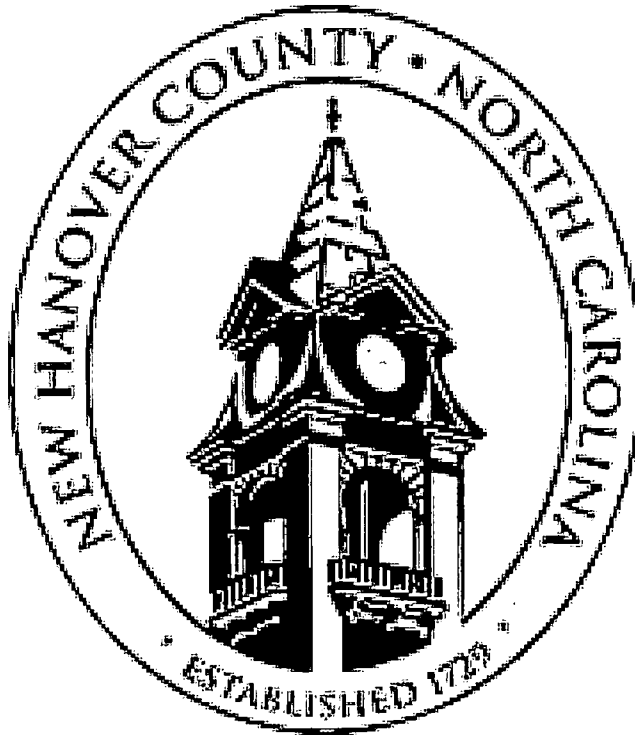


TAMMY THEUSCH
BEASLEY
Register of Deeds

New Hanover County

Register of Deeds

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Telephone 910-798-4530 • Fax 910-798-7716



State of North Carolina, County of NEW HANOVER
Filed For Registration: 10/30/2020 02:39:50 PM
Book: RB 6373 Page: 1140-1143
4 PGS \$26.00
Real Property \$26.00
Recorder: KELLIE GILES
Document No: 2020045924

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