

Denton County
Cynthia Mitchell
County Clerk
Denton, TX 76202



70 2004 00021845

Instrument Number: 2004-21845

Recorded On: February 23, 2004

As
Declaration

Parties: BEAZER HOMES TEXAS LP

To

Billable Pages: 15

Number of Pages: 15

Comment:

**** Examined and Charged as Follows: ****

Declaration	42 00
Total Recording:	42.00

***** THIS PAGE IS PART OF THE INSTRUMENT *****

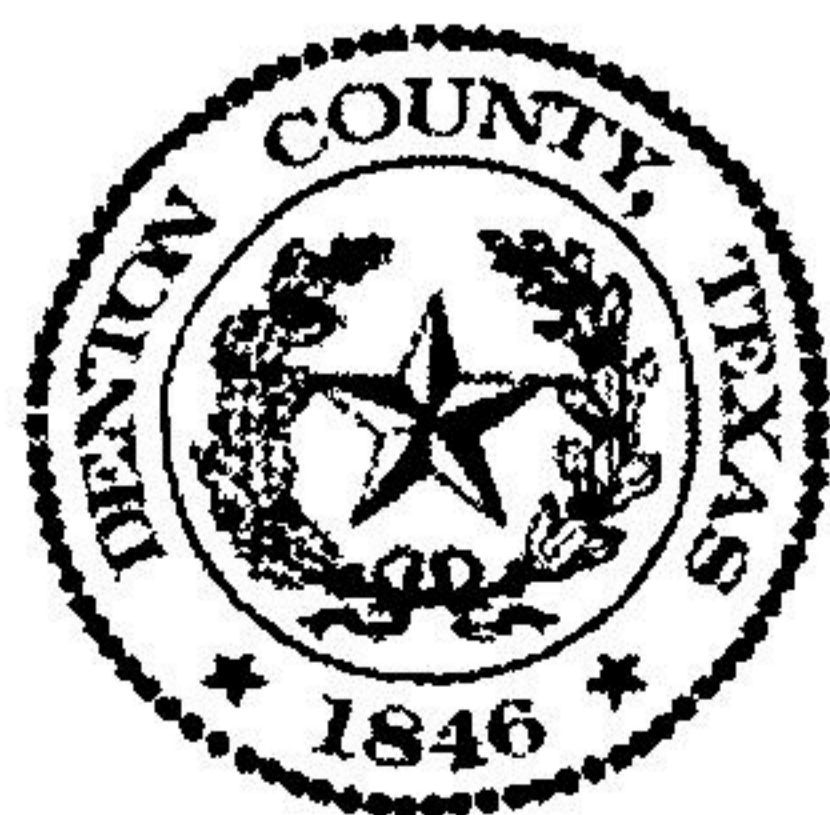
Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law

File Information:

Document Number. 2004-21845
Receipt Number: 89172
Recorded Date/Time. February 23, 2004 10:10A
User / Station. F Chenevert - Cash Station 4

Record and Return To:

JUDD A AUSTIN JR ESQ
1700 PACIFIC AVENUE
STE 2700
DALLAS TX 75201



THE STATE OF TEXAS }
COUNTY OF DENTON }

I hereby certify that this Instrument was FILED in the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.

C Mitchell

County Clerk
Denton County, Texas

After Recording Please Return To:

Judd A. Austin, Jr., Esq.
Henry Oddo Austin & Fletcher, P.C.
1700 Pacific Avenue
Suite 2700
Dallas, Texas 75201

THE STATE OF TEXAS

COUNTY OF DENTON

**FIFTH AMENDMENT TO THE DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR CIELO RANCH HOMEOWNERS ASSOCIATION, INC.
IN THE COUNTY OF DENTON, STATE OF TEXAS**

INTRODUCTORY PROVISIONS

WHEREAS, the Declaration of Covenants, Conditions and Restriction for Cielo Ranch Homeowners Association, Inc. in the County of Denton, State of Texas was executed by Beazer Homes Texas, L.P., a Texas limited partnership, as Declarant, on November 3, 1998, filed of record on November 16, 1998, and recorded in Volume 4219, Page 00715, *et seq.* of the Real Property Records of Denton County, Texas (the "Declaration"); and

WHEREAS, the Declaration was amended by that certain First Amendment to the Declaration of Covenants, Conditions and Restrictions for Cielo Ranch Homeowners Association, Inc. in the County of Denton, State of Texas, executed by Beazer Homes Texas, L.P., a Texas limited partnership, as Declarant, on March 18, 1999, filed of record on March 29, 1999, and

recorded in Volume 4306, Page 00288, *et seq.* of the Real Property Records of Denton County, Texas (the “First Amendment”); and

WHEREAS, the Declaration was again amended by that certain Second Amendment to the Declaration of Covenants, Conditions and Restrictions for Cielo Ranch Homeowners Association, Inc. in the County of Denton, State of Texas, executed by Beazer Homes Texas, L.P., a Texas limited partnership, as Declarant, on June 30, 1999, filed of record on July 1, 1999, and recorded in Volume 4372, Page 01817, *et seq.* of the Real Property Records of Denton County, Texas (the “Second Amendment”); and

WHEREAS, the Declaration was again amended by that certain Third Amendment to the Declaration of Covenants, Conditions and Restrictions for Cielo Ranch Homeowners Association, Inc. in the County of Denton, State of Texas, executed by Beazer Homes Texas, L.P., a Texas limited partnership, as Declarant, on August 25, 1999, joined by Michael J. Fowler and Kathleen M. Fowler, filed of record on August 27, 1999, and recorded in Volume 4413, Page 00722, *et seq.* of the Real Property Records of Denton County, Texas (the “Third Amendment”); and

WHEREAS, the Declaration was again amended by that certain Fourth Amendment to the Declaration of Covenants, Conditions and Restrictions for Cielo Ranch Homeowners Association, Inc. in the County of Denton, State of Texas, executed by Beazer Homes Texas, L.P., a Texas limited partnership, as Declarant, on September 12, 2003, filed of record on September 19, 2003, and recorded in Volume 5421, Page 0823, *et seq.* of the Real Property Records of Denton County, Texas (the “Fourth Amendment”); and

WHEREAS, Beazer Homes Texas, L.P., continues to act as Declarant, herein so-called, and maintains an ownership interest in a portion of that certain real property located in Denton County, Texas more particularly described on Exhibit B attached hereto (the "Property"); and

WHEREAS, the Declaration, the First Amendment, the Second Amendment, the Third Amendment and the Fourth Amendment affect the Property; and

WHEREAS, under Article XI, Section 11.02 (b) of the Declaration, the terms and conditions contained in the Declaration may be amended by the Declarant with the written consent of no less than fifty-one percent (51%) of the Owners of Lots subject to the Declaration; and

WHEREAS, the Declarant, along with those individuals who have executed written consents, attached hereto as Exhibit A, constitute the Owners of at least fifty-one percent (51%) of all Lots subject to the Declaration, have provided written consent to the amendments to the Declaration contained in this Fifth Amendment.

NOW, THEREFORE, the Declaration is hereby amended as follows:

Article IX of the Cielo Ranch Declaration is hereby amended by adding a new Section 9.22 which shall read, in its entirety, as follows:

9.22. Combining of Lots. Any person or entity owning two or more adjoining Lots may consolidate such Lots into a single building location for the purpose of constructing one (1) residential dwelling thereon (the plans and specifications therefor being approved as set forth in this Declaration) and such other improvements as are permitted herein; provided, however, any such consolidation must comply with the rules, ordinances, regulations of any governmental authority having jurisdiction over the Property, and the Owner seeking such consolidation shall be solely responsible for any and all costs and expenses of such consolidation, including, but not limited to the costs of replatting, governmental fees, and fees for professional services whether incurred by such Owner, Declarant or the Association.

In the event of any such consolidation, the consolidated Lots shall be deemed to be a single Lot for purposes of applying the provisions of this Declaration; provided, however, such Owner shall continue to pay assessments on such Lots as if such Lots had not been consolidated and shall be entitled to one vote for each Lot (determined prior to such consolidation) owned by such Owner. Any such consolidation shall give consideration to easements as shown and provided for on the Plat and any required abandonment or relocation of any such easements shall require the prior approval of Declarant or the Board of Directors of the Association as well as the prior written approval of any utility company having the right to the use of such easements. Combining portions of Lots into a single building site is prohibited.

The terms and provisions of the Declaration, the First Amendment, the Second Amendment, the Third Amendment and the Fourth Amendment, except as modified herein, are hereby declared to be in full force and effect with respect to the Property.

IN WITNESS WHEREOF, Beazer Homes Texas, L.P., as Declarant, with the written consent of no less than fifty-one percent (51%) of the Owners of Lots subject to the Declaration, have caused this Fifth Amendment to the Declaration of Covenants, Conditions and Restrictions for Cielo Ranch Homeowners Association, Inc. in the County of Denton, State of Texas, in accordance with Article XI, Section 11.02(b) of the Declaration, to be covenants which shall run with title to the Property until otherwise amended as provided in the Declaration.

Signed this _____ day of _____, 2003.

**BEAZER HOMES TEXAS, L.P.,
A Texas Limited Partnership**

**By: Beazer Holdings of Texas, Inc.,
General Partner**

By: Bruce French, D.P.
Bruce French, Division President

CIELO RANCH HOMEOWNERS ASSOCIATION, INC.

By: Bruce French, President
Bruce French, President

CERTIFICATION OF APPROVAL

I, Bruce French, the duly-elected President of the Cielo Ranch Homeowners Association, Inc. hereby certify:

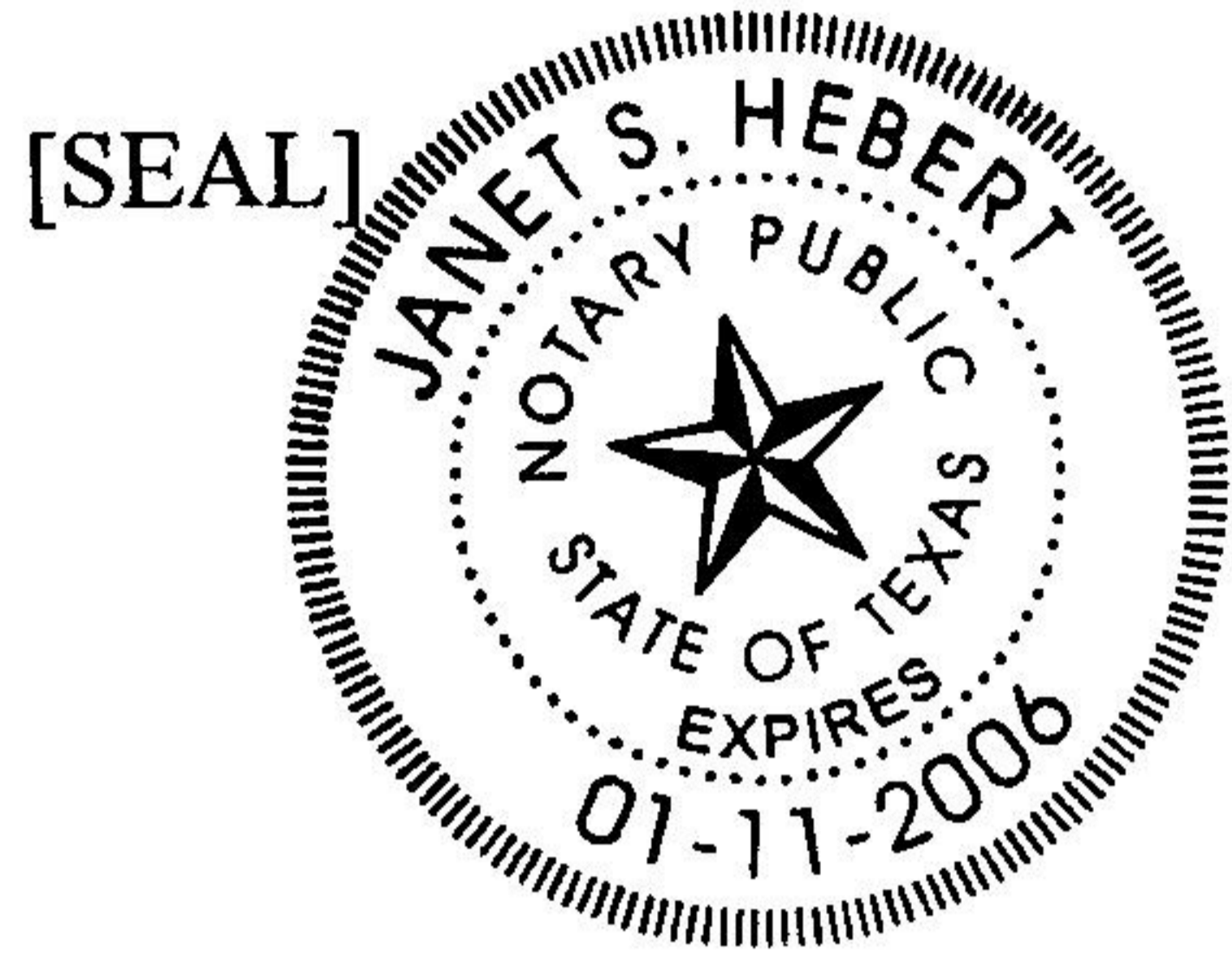
That the written consents attached hereto as Exhibit A are true and correct copies of the originals and constitute the written consent of no less than fifty-one percent of the Owners of Lots subject to the Declaration other than the Declarant. I have read the foregoing Fifth Amendment to the Declaration of Covenants, Conditions and Restrictions for Cielo Ranch and it is true and correct, and do approve same for recording in the Real Property Records of Denton County, Texas.

Bruce French, President
Bruce French, President

STATE OF TEXAS

COUNTY OF Collin

This instrument was acknowledged before me on the 9th day of December, 2003, by Bruce French, Division President of Beazer Holdings of Texas, Inc., a Texas corporation, General Partner of Beazer Homes Texas, L.P., a Texas limited partnership.



Janet Hebert
Notary Public, State of Texas

STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on the _____ day of _____, 2003, by _____, President of the Cielo Ranch Homeowners Association, Inc.

[SEAL]

Notary Public, State of Texas

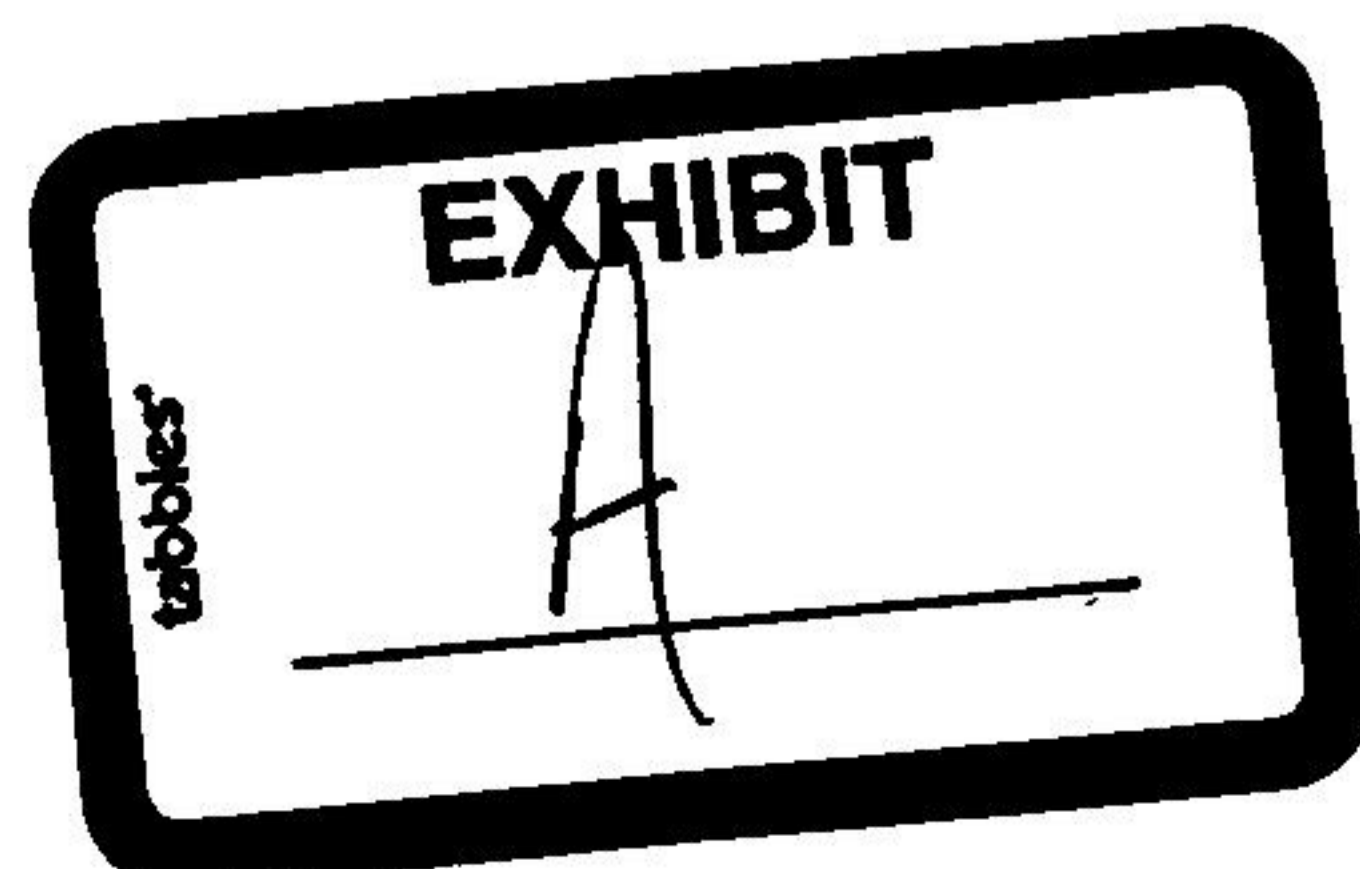
Sinkule

**FIFTH AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR CIELO RANCH HOMEOWNERS
ASSOCIATION, INC. IN THE COUNTY OF DENTON, STATE OF TEXAS**

I/we hereby provide written consent to amend the Fifth Amendment of the Cielo Ranch Declaration by adding Section 9.22 to Article IX. I/we have read the Fifth Amendment to the Cielo Ranch Declaration and hereby provide my written consent to the adding of Section 9.22 to Article IX thereof entitled Combining of Lots.

Name	Address	Signature
1. BOB McSPADEN	400 Comanche Drive	Bob McSpaden
2. Patty Dunbar	441 Paradise Cove	Patty Dunbar
3. TRALEY CRYS DALE	730 PARADISE COVE	Traley Crisdale
4. LUTHER + GLENDA WALLACE	201 PARADISE COVE	Luther Wallace
5. Liz Broughton	1231 McClintock	Liz Broughton
6. Kim Bock	1121 Cogburn Ct.	Kim Bock
7. SHIRLEY SWARD	701 PARADISE COVE	Shirley Sward
8. PAUL GACKE	611 PARADISE COVE	Paul Gacke
9. Edgar Van Trotha	310 Comanche	Edgar Van Trotha
10. Davey Weber	311 Comanche	Davey Weber
11. MARK YAKLIN	521 Paradise Cove	Mark Yaklin
12. Robert J. Hammons	731 Paradise Cove	Robert J. Hammons
13. ART SHORNEY	321 PARADISE COVE	Art Shorney
14. Drew McCorkle	1110 Durango Cir	Drew McCorkle
15. Deborah & Sim Solomon	1111 Mc Clintock Dr.	Deborah Solomon

**FIFTH AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR CIELO RANCH HOMEOWNERS
ASSOCIATION, INC. IN THE COUNTY OF DENTON, STATE OF TEXAS**



**FIFTH AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR CIELO RANCH HOMEOWNERS
ASSOCIATION, INC. IN THE COUNTY OF DENTON, STATE OF TEXAS**

I/we hereby provide written consent to amend the Fifth Amendment of the Cielo Ranch Declaration by adding Section 9.22 to Article IX. I/we have read the Fifth Amendment to the Cielo Ranch Declaration and hereby provide my written consent to the adding of Section 9.22 to Article IX thereof entitled Combining of Lots.

Name	Address	Signature
16. Ron & Joanne Fellows	631 Comanche Circle	<i>Joanne Fellows</i>
17. Chris & Ann Diebel	820 PENINSULA BEND	<i>Chris Diebel</i>
18. CEE & LENA SMALLWOOD	121 PARADISE CV	<i>Cee Smallwood</i>
19. LORGE PESANTE	1101 McCLINTOCK	<i>Lorge Pesante</i>
20. JOHN T. WILLIAMS	840 PENINSULA BEND	<i>John T. Williams</i>
21. TERRY A. WHITE	641 Comanche Cir	<i>Terry A. White</i>
22. Elliott K Carpenter	750 Peninsula Bend	<i>Elliott K Carpenter</i>
23. Robert W. & Mary J. Taylor	211 Paradise Cove	<i>Robert W. Taylor</i>
24. Brian J. Neiser	1131 Gogburn Ct	<i>Brian J. Neiser</i>
25. FRANK Belknap	411 Paradise	<i>Frank Belknap</i>
26. Joan Hart	311 Paradise	<i>Joan Hart</i>
27. PAULA WOOLWORTH	401 Paradise Cove	<i>Paula Woolworth</i>
28. Liz Holland	421 Paradise Cove	<i>Liz Holland</i>
29. Roger Barry	501 Paradise Cove	<i>Roger Barry</i>
30. Jimmy Boland	621 PARADISE COVE	<i>Jimmy Boland</i>

**FIFTH AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR CIELO RANCH HOMEOWNERS
ASSOCIATION, INC. IN THE COUNTY OF DENTON, STATE OF TEXAS**

**FIFTH AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR CIELO RANCH HOMEOWNERS
ASSOCIATION, INC. IN THE COUNTY OF DENTON, STATE OF TEXAS**

I/we hereby provide written consent to amend the Fifth Amendment of the Cielo Ranch Declaration by adding Section 9.22 to Article IX. I/we have read the Fifth Amendment to the Cielo Ranch Declaration and hereby provide my written consent to the adding of Section 9.22 to Article IX thereof entitled Combining of Lots.

Name	Address	Signature
31. Robert Wiebe	711 Paradise Cove	Robert A. Wiebe
32. John Mackenzie	200 Comanche Dr	John Mackenzie
33. Brian Tomlin		Brian Tomlin
34. Brian Tomlin	131 Paradise Cove	Brian Tomlin
35.		
36.		
37.		
38.		
39.		
40.		
41.		
42.		
43.		
44.		
45.		

**FIFTH AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR CIELO RANCH HOMEOWNERS
ASSOCIATION, INC. IN THE COUNTY OF DENTON, STATE OF TEXAS**

**FIFTH AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR CIELO RANCH HOMEOWNERS
ASSOCIATION, INC. IN THE COUNTY OF DENTON, STATE OF TEXAS**

I/we hereby provide written consent to amend the Fifth Amendment of the Cielo Ranch Declaration by adding Section 9.22 to Article IX. I/we have read the Fifth Amendment to the Cielo Ranch Declaration and hereby provide my written consent to the adding of Section 9.22 to Article IX thereof entitled Combining of Lots.

Name	Address	Signature
1. Robert W. Sullivan	431 Paradise Cove	Robert W. Sullivan
2. Mike Fowler	1200 Hobbsway	Mike Fowler
3. James C. Scott	661 Comanche Circle	James C. Scott
4. Dwayne Darling	611 Comanche Circle	Dwayne Darling
5. Kristi Suck	601 Comanche Cr.	Kristi Suck
6. Pam Bedingfield	671 " "	Pam Bedingfield
7. Janice Lister	1100 Cogburn	Janice Lister
8. Linda Pesant	1101 McClintock	Linda Pesant
9. Lon Van Ness	601 Paradise Cove	Lon Van Ness
10. Mary Warmbrodt	701 Peninsula Bend	Mary Warmbrodt
11. Jeff Farr	1221 McClintock	Jeff Farr
12. Jim Whites	1131 McClintock	Jim Whites
13. Nathan Crawford	1201 McClintock	Nathan Crawford
14. _____	_____	_____
15. _____	_____	_____

**FIFTH AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR CIELO RANCH HOMEOWNERS
ASSOCIATION, INC. IN THE COUNTY OF DENTON, STATE OF TEXAS**

**FIFTH AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR CIELO RANCH HOMEOWNERS
ASSOCIATION, INC. IN THE COUNTY OF DENTON, STATE OF TEXAS**

I/we hereby provide written consent to amend the Fifth Amendment of the Cielo Ranch Declaration by adding Section 9.22 to Article IX. I/we have read the Fifth Amendment to the Cielo Ranch Declaration and hereby provide my written consent to the adding of Section 9.22 to Article IX thereof entitled Combining of Lots.

Name	Address	Signature
1. Marshall + Stephanie Ellis	1141 Cogburn Ct.	Stephanie Ellis
2. Jen + Kim Mason	1110 Cogburn Ct	Kim Mason
3. Kay Perry + Ron Seaward	1120 Cogburn Ct.	R. Seaward
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		

**FIFTH AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR CIELO RANCH HOMEOWNERS
ASSOCIATION, INC. IN THE COUNTY OF DENTON, STATE OF TEXAS**

EXHIBIT "B"

WHEREAS, BEAZER HOMES TEXAS, L.P., is the owner of a tract of land situated in the G.W.L. Shahan Survey, Abstract No. 1237, the William Loftin Survey, Abstract No. 740, and the R.B. Brown Survey, Abstract No. 110, Denton County, Texas, being all of a 83.879 acre tract described in Clerk's File No. 97-0081124, in the Deed Records of Denton County, Texas, being more particularly described as follows:

BEGINNING at an iron pin at the southeast corner of the G.W.L. Shahan Survey and the northeast corner of the R.B. Brown Survey, Abstract No. 110, on the west boundary line of the Wm. Loftin Survey, Abstract No. 749, being the northeast corner of a tract of land described in a deed to B.B. Hemphill, as described in Volume 610, Page 131, in said Deed Records;

THENCE, North 87°52'36" West, with the south boundary line of the G.W.L. Shahan Survey, and the north line of said Hemphill tract, a distance of 719.76 feet to a U.S.A. Monument No. N-158-W1;

THENCE, North 87°54'39" West, with the south boundary line of the G.W.L. Shahan Survey, a distance of 400.11 feet to U.S.A. Monument No. N-158-W;

THENCE, North 17°29'33" West, for a distance of 392.90 feet to a U.S.A. Monument No. N-157-W1;

THENCE, North 17°26'35" West, for a distance of 349.94 feet to U.S.A. Monument No. N-157-W;

THENCE, North 44°45'22" East, for a distance of 112.25 feet to an iron rod found;

THENCE, North 05°05'37" East, for a distance of 217.20 feet to a U.S.A. Monument No. N-182-W;

THENCE, North 20°08'59" East, for a distance of 251.85 feet to a U.S.A. Monument No. N-181-W;

THENCE, North 58°20'51" East, for a distance of 146.71 feet to an iron rod found at the northwest corner of a tract of land described in a deed to Robert J. Zachmeier, recorded in Volume 2858, Page 795, in said Deed Records;

THENCE, South 31°39'15" East, for a distance of 119.87 feet to an iron rod found at the southwest corner of said Zachmeier tract;

THENCE, North 58°22'28" East, a distance of 127.91 feet to an iron rod found;

THENCE, North 75°41'37" East, for a distance of 53.16 feet to an iron rod found at the southwest a tract of land described in a deed to Brenda K. Pruitt, recorded in Volume 2220, Page 291, in said Deed Records;

THENCE, North 14°18'23" East, for a distance of 120.06 feet to an iron rod found;

THENCE, South 75°34'27" East, for a distance of 341.39 feet to a U.S.A. Monument No. N-179-W;

THENCE, North 88°08'56" East, for a distance of 487.02 feet to a U.S.A. Monument No. N-178-W on the east boundary line of the G.W.L. Shahan Survey and the west boundary line of the Loftin Survey, Abstract No. 749;

THENCE, South 71°55'53" East, a distance of 347.97 feet to a U.S.A. Monument No. N-177-W;

THENCE, North 58°32'48" East, a distance of 349.65 feet to a U.S.A. Monument No. N-176-W;

THENCE, North 58°19'02" East, a distance of 481.70 feet to a U.S.A. Monument No. N-175-W;

THENCE, North 59°27'28" East, a distance of 183.72 feet to a U.S.A. Monument No. N-174-W;

THENCE, South 11°04'54" East, a distance of 302.66 feet to an iron pin;

THENCE, South 14°41'12" West, a distance of 299.02 feet to a U.S.A. Monument No. N-172-W;

THENCE, South 42°53'18" East, a distance of 347.61 feet to a U.S.A. Monument No. N-171-W;

THENCE, South 29°43'42" East, a distance of 221.89 feet to a U.S.A. Monument No. N-170-W;

THENCE, South 45°46'53" West, a distance of 809.36 feet to a U.S.A. Monument No. N-169-W;

THENCE, South 53°05'19" West, a distance of 697.03 feet to a U.S.A. Monument No. N-168-W;

THENCE, North 03°53'23" West, a distance of 207.87 feet to a U.S.A. Monument No. N-167-W;

THENCE, North 87°34'08" West, a distance of 192.54 feet to a U.S.A. Monument No. N-166-W;

THENCE, South 08°31'01" West, a distance of 363.08 feet to a U.S.A. Monument No. N-165-W1;

THENCE, South 08°33'19" West, a distance of 300.09 feet to a U.S.A. Monument No. N-165-W;

THENCE, South 52°41'55" West, a distance of 190.74 feet to a U.S.A. Monument No. N-164-W on the west boundary line of the Wm. Loftin Survey, Abstract No. 749 and the east boundary line of the R.B. Brown Survey, Abstract No. 110;

THENCE North 02°07'55" East, with said survey line a distance of 794.01 feet to the POINT OF BEGINNING, and containing 83.8789 acres of land.

**THIS STAMP IS FOR SCANNING
PURPOSES ONLY.**

**THIS STAMP IS FOR SCANNING
PURPOSES ONLY.**