

**FIRST AMENDMENT OF DECLARATION
OF
WESTCHESTER ON THE CREEK
CITY OF GRAND PRAIRIE, DALLAS COUNTY, TEXAS**

Deed 05/25/00

2139167

1005268

\$15.00
\$18.00

THIS FIRST AMENDMENT OF DECLARATION OF WESTCHESTER ON THE CREEK AREA NO. I. IS MADE AS OF THE 4TH DAY OF MAY 2000.

WITNESSETH:

WHEREAS, the Declaration of Westchester on the Creek Area No. I. (the "Declaration") was filed for record in the Deed Records of Dallas County, Texas on 12 December 1996 at Volume 96242, Page 02027; and,

WHEREAS, Supplementary Declaration No I of Westchester on the Creek Area No. II. (the "First Supplement") was filed for record in the Deed Records of Dallas County, Texas on 1 May 1997 at Volume 97085, Page 04475; and,

WHEREAS, Supplementary Declaration No II of Westchester on the Creek Area No. III. (the "Second Supplement") was filed for record in the Deed Records of Dallas County, Texas on 6 April 1998 at Volume 98066, Page 03348; and,

WHEREAS, the Declaration, the First Supplement and the Second Supplement affect and encumber certain tracts or parcels of real property located in Dallas County, Texas which are more particularly described in Exhibit "A" attached hereto (the "Property"); and,

WHEREAS, Article V of the original Declaration does not provide procedures for the granting of variances to the specific requirements, restrictions and limitations imposed by the said Article V, although variances to the requirements, restrictions and limitations of Article V may from time to time be necessary and appropriate in furtherance of the best interests of Westchester on the Creek and the Members of the Westchester on the Creek Homeowners Association (the "Association"); and,

WHEREAS, the Declaration provides for its amendment by the Members of the Association, pursuant to procedures established at Article VIII, Section 2 of such Declaration; and,

WHEREAS, Article VIII, Section 2 of the Declaration provides that Article V of the Declaration may be amended by the affirmative vote of sixty percent (60%) of the total eligible votes of the Membership of the Association, voting in person or by proxy, with both classes of membership voting together; and,

WHEREAS, at a Special Meeting of the Members of the Association convened on 4 May 2000 in accordance with § 3.02 of the of the By-Laws of the Association, and upon notice to the Members pursuant to § 3.04 of the said By-Laws, with sixty percent (60%) of the total eligible votes of the Membership of the Association voting in the affirmative, in person or by proxy, and with both classes of membership voting together, Article V of the Declaration was amended to add "Article V, Section 2: Variances."

NOW, THEREFORE, premises considered, CHANCELLORSVILLE VENTURE, LLC, Declarant pursuant to the Declaration, and the Members of Association identified at EXHIBIT "A," attached hereto and incorporated herein by this reference for all purposes, which Members represent not less than sixty percent (60%) of the total eligible votes of the membership of the Association, with both classes of membership voting together, do hereby ADOPT and INCORPORATE the following "Section 2: Variances" as a duly approved addition to Article V of the Declaration.

Article V, Section 2: Variances

- a) Upon good cause in furtherance of the best interests of Westchester on the Creek and the Members of the Association, the Architectural Control Committee (the

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"ACC"), or the Board of Directors of the Association, shall have the power to grant variances to the requirements, restrictions and limitations provided and imposed by Article V, Section 1 of the Declaration.

- b) Upon receipt of a written *Request for Variance* (herein so-called) from any homebuilder or individual (the "*Applicant*"), the ACC shall promptly consider such request. The ACC may approve or disapprove such Request for Variance, by a majority vote, within 21 days following its receipt thereof. In the event of the approval of any Request for Variance, the ACC shall issue a written *Notice of Approved Variance* (herein so-called), in a form suitable for recordation, executed by the Chairman of the ACC or his or her designated representative. Upon the disapproval of any Request for Variance, the ACC shall provide written notice thereof to the Applicant. In the event the ACC shall disapprove a Request for Variance, or shall fail to act upon any Request for Variance within 21 days following its receipt thereof, the Applicant may apply to the Board of Directors of the Association for approval of the Request for Variance. In such event, the Board of Directors of the Association may approve or disapprove such Request for Variance, by a majority vote, within 21 days following its receipt thereof. In the event of the approval of any Request for Variance, the Board of Directors of the Association shall issue a written *Notice of Approved Variance*, in a form suitable for recordation, and executed by the Chairman of the Board of Directors of the Association, or his or her designated representative. Upon the disapproval of any Request for Variance, the Board of Directors of the Association shall provide written notice thereof to the Applicant. The disposition of any Request for Variance by the Board of Directors of the Association shall be final. In no event shall the ACC's or Board of Directors' failure to act on a Request for Variance within 21 days of the receipt thereof ever constitute a deemed approval of such Request for Variance.
- c) Upon the approval of a Request for Variance by the ACC or the Board of Directors of the Association, the Applicant shall file the *Notice of Approved Variance* in the deed records of Dallas County, Texas. The filed *Notice of Approved Variance* shall represent public notice of the existence of the approved variance.
- d) No member of the ACC or the Board of Directors shall be liable to any Applicant or any person or entity claiming by, through or on behalf of any Applicant, for any claims or causes of action arising out of the approval, disapproval or failure to act upon any Request for Variance. Each Request for Variance submitted hereunder shall be reviewed separately and apart from other such requests and the approval of a Request for Variance shall not constitute a waiver of the ACC's or the Board of Directors' right to strictly enforce the requirements, restrictions and limitations provided and imposed by Article V, Section 1 of the Declaration.

The covenants, conditions, restrictions, easements and liens contained in the Declaration, except as modified herein, are hereby declared to be in full force and effect with respect to the Property.

EXECUTED in Dallas County, Texas on 18 May 2000.

CHANCELLORSVILLE VENTURE, LLC

By: 
Robert H. McKenzie Smith
Manager

PAUL CONANT, President of Westchester on the Creek Homeowners Association, as attorney-in-fact for the Members of the Association identified at EXHIBIT "A"

Paul L. Conant, Jr.
Paul Conant

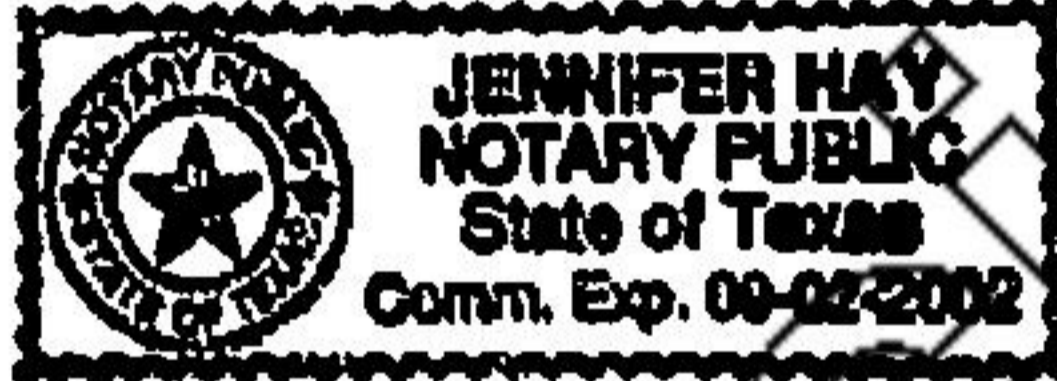
STATE OF TEXAS

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COUNTY OF DALLAS

BEFORE ME, the undersigned authority, on this day personally appeared Robert H. McKenzie-Smith, Manager of Chancellorsville Venture, LLC, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same in the capacity and for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 18th day of May 2000.



Jennifer Hay
Notary Public in and for the State of Texas

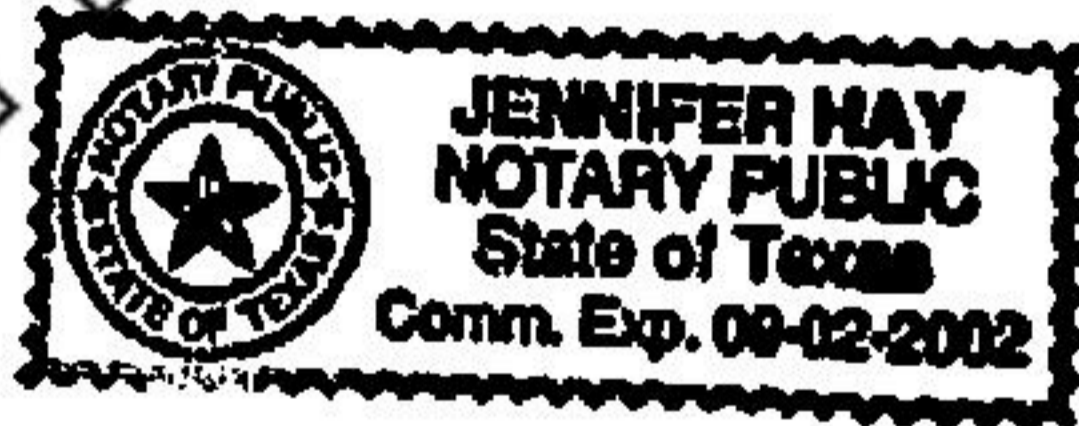
STATE OF TEXAS

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COUNTY OF DALLAS

BEFORE ME, the undersigned authority, on this day personally appeared Paul Conant, President of Westchester on the Creek Homeowners Association, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 18th day of May 2000.



Jennifer Hay
Notary Public in and for the State of Texas

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EXHIBIT "A"

Members Voting in Favor of First Amendment of Declaration of Westchester on the Creek

Robert McKenzie-Smith, LTD/Chancellorsville Venture
Howard & Kimberly Adamson
Morufu O Akintola
Diane Alexander
Bluford & Laura Allen
Todd & Angela Allison
Emmanuel & Rosetta Asafu-Adjaye
Irvin & Sheronna Ashford
Gustavo & Cheryl Baez
Thomas & Sheri Balthrop
James Curtis Barnes
Donnie Belk
Sandra R Bell
Carole A Beyer
Maxie Bishop
Charles R & Cynthia Bowles
Shawn & Jennifer Brunson
Christopher T & Stephanie T Burns
Colette Callow
Vandy & Chakrya Cheun
Brandon Clark
Joseph T Coe
Paul Conant
Michael A & Stacy Cozad
Charley & Verna Croomes
Christopher G Davies
James & Lorrinda Davis
Tony & J Elizabeth Delgado
Francis J & Leigh Ann Dibble
Brian & Angela Dickerson
Edrice Dudley
Doug & S helly Durrwachter
Marius & Janet Eugenio
Mark Euziere
Maria Evans
Eric & Juliet D Ezar
George Feigle
Jeff C Flood
Andrew L Francois
Mark Gilbert
Linda Gilstrap
Gregory & Rhonda Goffinet
John C & Patricia M Gonzales
Nancy Gonzales
Raymond & Laura Gonzales
Vanitha Gowda
Eli Gross
Angel V Guerra
Marissa Gutierrez
Benny Handley
Andreas Hargrove
Glenn Hemphill
Patrick & Judith Henderson
Robert W & Linda S Hesselbrock
Lawrence B Hildreth
Bradford H & Julianna Hodges
Thomas Holloman
James Hoover
Mohammed T & Fathana Hossain
Kenneth & Rhonda Hudspeth
Robert & Julie Huerta
Alfia Idris
Sity & Mimi M Jacob
Eric & Rene Jensen
Lola Mae Johnson
Jose & Marcellina Juarez
Khazem A & Rachel Khazem
Anthony L & Tannessa R King
Douglas G & Sherryl L Kolpanen
Frank & Kewlee Koorasingh
Anatolly & Galina Lapshova
Bryan & Christy Lee
Fredric L Link
Diana Mackey
Barbara J Marke
Michael S & Donna C Marsicanio
Joseph F & Charmaine Martinez
Monique E Mason
Joann Matthews
Julia A McCampbell
Lisa C & Ray R McGrough
Gordon & Connie L Mize
William Mock
Marvin & Jessie Mandy
Sophia L Montenegro
Bradley E Moran
George W Phillips
Joseph Ramsay
Russell M & Loretta T Rayner
Myrna & Noah H Rayos
Stuart & Nadine Reeves
Jess & Haydee Resendez
Michael L & Tanisia Revis
Mark Owen Rewis
Lloyd & Leah Robinson
Randy & Kristin Robinson
Nadila Rosa Rodriguez
Joe & Wenona B Rogers
John Roper
Herlinda Saldivar
Richard III & Mary S Santos
Tracy C & Kerwin Schultz
Arlene Scott
Thomas Scott
Keith S Sharkey
Adam & Suzanne Sherif
Valerie & Clarence Shepard
Christopher Simson
Douglas & Joy Smith
Michael & Deborah L Smith
Calvin & Karen Smith
Sangwon & Hee S Son
Gary W & Jessica L Sorrels
David A & Carrie L Sweezey
Ricky A Templeton
Willie D Thomas
Hernan Tijerina
Jerry W & Laurel G Trostle
Eugene & Nicole Villalobos
Bruce D & Joyce Wadsworth
James D & Tammy Watterson
Timmy D & Janice R Welch
Billy Don White
Todd Ray & Denise Wood
Bobby D & Yuvetta Lynn Woods

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After Recordation, Return to:
Westchester-On-The-Creek HOA
P. O. Box 540335
Grand Prairie, TX 75054-0335

Unofficial Copy

COUNTY CLERK, Dallas County, Texas

E. J. Bussick



MAY 25 2000

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.
I hereby certify this instrument was filed on the date and time stamped herein by me and was duly recorded in the volume and page of the named records of Dallas County, Texas as stamped herein by me.

COUNTY OF DALLAS
STATE OF TEXAS

FILED
2000 MAY 25 AM 8:17
COUNTY CLERK
DALLAS COUNTY

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