

WHEN RECORDED MAIL to: ¹⁰⁸¹⁰⁴⁸⁷
HAMLET HOMES
308 EAST 4500 SOUTH STE 250
SALT LAKE CITY UTAH 84107

10810487
10/5/2009 11:32:00 AM \$33.00
Book - 9768 Pg - 4008-4012
Gary W. Ott
Recorder, Salt Lake County, UT
US TITLE PARK CITY
BY: eCASH, DEPUTY - EF 5 P.

WAVERLY STATION HOMEOWNERS ASSOCIATION, INC.

**THIRD AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS THIRD AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Third Amendment"), is made this 5 day of October, 2009, by WAVERLY STATION, L.L.C., a Utah Limited Liability Company ("Declarant").

WITNESSETH:

WHEREAS, Hamlet made, executed and caused to be recorded, as Declarant, that certain Declaration of Covenants, Conditions and Restrictions dated September 26, 2006 and recorded among the Salt Lake County Recorder's Office on October 2, 2006, Entry #9862959, Book 9359, Pages 8366-8402, pursuant to which the Declarant subjected all that property described in the Declaration (the "Property") and Declarant formed an association known as, "Waverly Station Homeowners Association" ("Association"); and

WHEREAS, pursuant to Article 3.2 of the Declaration, Declarant reserved the right to add to the Property additional land within that area described in Exhibit "B" attached to the Declaration; and

WHEREAS, Declarant, is the owner of that certain property described in Exhibit "A" attached hereto and incorporated herein, and that property is within the area described in Exhibit "B" attached to the Declaration, and Declarant wishes to add that property described in Exhibit "A" attached hereto to the Property subjected to the Declaration.

WHEREAS, a portion of the property described in Exhibit "A" is platted for Live/Work units and Declarant wishes to add provisions that specifically apply to those Live/Work units.

NOW THEREFORE, the Declarant hereby declares that the Declaration of Covenants, Conditions and Restrictions be amended as follows:

All that property described in Exhibit "A" attached hereto is annexed to the Property subject to the Declaration, and shall be held, sold and conveyed subject to the easements, declarations, covenants and conditions set forth in the Declaration, which are for the purpose of protecting the value and desirability, and enhancing the attractiveness of the Property, and which shall run with the Property and shall be binding upon all parties having any right, title or interest in the Property or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner of the Property or any part thereof and their respective heirs, personal representatives, successors and assigns, and the Association.

The portion of the property, Lots 132, 134, 136, 137, 139 and 141 provide first floor flex space that may be used for home occupation to be known as Live/Work units (per the South Salt Lake City Municipal Code governing Transit Oriented Development Districts, Title 17.36.050, to accommodate limited commercial/retail/office use) is subject to and must comply with all applicable City codes governing commercial/retail/office use.

Owners or owner's tenants of a Live/Work unit must obtain all applicable approvals or permits (i.e. business license, building permit, etc.) prior to using their Live/Work unit in a commercial/retail/office capacity.

Should the owner or owner's tenant of a Live/Work unit wish to use the Live/Work unit for a conditional use, as defined by the above referenced municipal code, the owner or owner's tenants must first obtain a Conditional Use Permit by applying to the City of South Salt Lake. Only after a Conditional Use Permit is granted by the City of South Salt Lake, will the owner or owner's tenant be permitted to use his Live/Work unit for a conditional use.

Owners or owner's tenants of a Live/Work unit are permitted to display a sign for the purposes of advertising the commercial/retail/office use of the Live/Work unit only after first obtaining the approval of the Waverly Station Homeowners Association Design Review Committee as well as the City of South Salt Lake. No "neon" type signs shall be permitted. Any sign that is lighted shall be backlit only. No sign shall have a finish of stone or stucco. Font types and coloring shall be compatible with Waverly Station's neo-traditional/classic architecture and design elements. The maximum size of the sign shall not exceed the City of South Salt Lake sign ordinances.

In all other respects, the Declaration, as amended, remains unchanged.

WITNESS the hand and seal of Waverly Station L.L.C. on the day herein above first written.

WITNESS/ATTEST: WAVERLY STATION L.L.C.
By: HAMLET HOMES CORPORATION,
Member

By: John Aldous (SEAL)
John Aldous, President

STATE OF UTAH, CITY/COUNTY OF SALT LAKE, TO WIT:

I HEREBY CERTIFY that on this 5 day of Oct., 2009, before me, the subscriber, a Notary Public of the State of Utah, personally appeared John Aldous, known to me or suitably proven, who acknowledged himself to be President of Hamlet Homes Corporation, Member of Waverly Station, L.L.C., the entity named in the foregoing instrument, and who, being authorized to do so, in my presence, signed and sealed the same and acknowledged the same to be the act and deed of such entity.

AS WITNESS my hand and seal.



Linda Sparks-Phillips
Notary Public

My Commission Expires: 6/3/2013

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

EXHIBIT A

Description of the Additional Property

PHASE III

BEING all those Lots shown and designated as Lot Nos. 123 through and including 161 and the Common Area shown as "Common Area" on the Plat entitled, "WAVERLY STATION PHASE No. 3, 2nd AMENDED" recorded among the Recorder's Office of Salt Lake County on 9/21/2009 in Book #2009P on Page 136 Recorded #10801112.

(Lots 132, 134, 136, 137, 139 & 141 are Live/Work townhomes)

JOINDER AND CONSENT

American Securities Company and Wells Fargo Bank, NA, are, respectively, the Trustee and the Beneficiary under the following deeds of trust ("Deeds of Trust") and hereby join in the foregoing Declaration of Covenants, Conditions and Restrictions for the express purpose of subordinating all of their respective right, title and interest under such Deeds of Trust in and to the real property described in Exhibit A such to the operation and effect of such Declaration:

Deed of Trust dated July 17, 2006 and recorded July 21, 2006 as Entry No. 9789335 in Book 9325 at Page 1849 of Official Records of Salt Lake County, Utah;
A Revolving Credit Construction Deed of Trust dated November 17, 2006 and recorded November 21, 2006 as Entry No. 9915880 in Book 9383 at Page 6671 of Official Records of Salt Lake County, Utah;
Deed of Trust dated July 17, 2006 and recorded July 21, 2006 as Entry No. 9789349 in Book 9325 at Page 1975 of the Official Records of Salt Lake County, Utah;
Construction Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing dated May 17, 2007 and recorded May 22, 2007 as Entry No. 10108025 in Book 9467 at Page 3350 of Official Records of Salt Lake County; Utah; and
Construction Trust Deed, Assignment of Rents, Security Agreement and Fixture Filing dated July 19, 2007 and recorded July 26, 2007 as Entry No. 10175169 in Book 9495 at Page 9565 of Official Records of Salt Lake County, Utah.

Nothing in the foregoing provisions of this Joinder and Consent of Trustee and Beneficiary shall be deemed in any way to create between the person named in such Declaration as "the Declarant" and any of the undersigned any relationship of partnership or joint venture, or to impose upon any of the undersigned any liability, duty or obligation whatsoever.

IN WITNESS WHEREOF, the Trustee and Beneficiary have executed and sealed this Joinder and Consent of Trustee and Beneficiary or caused it to be executed and sealed on its behalf by its duly authorized representatives, this ___ day of October 2009.

WITNESS OR ATTEST:

Julie Nemetz

TRUSTEE:

Marta Kowtal (SEAL)
By: MARTIA KOWTAL

WITNESS OR ATTEST:

Julie Nemetz

BENEFICIARY:

Marta Kowtal (SEAL)
By: MARTIA KOWTAL

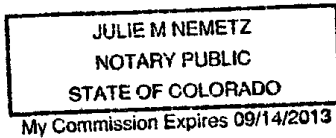
Notary Affidavits Follow

STATE OF CO
COUNTY OF Denver

I HEREBY CERTIFY, that on this 2 day of Oct 2009, before me, the subscriber, a Notary Public in and for the State of CO County of Denver, personally appeared Marta Kotak, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged himself to be the SVP of WStea of American Securities Company, Trustee, that he has been duly authorized to execute, and has executed, the foregoing instrument on behalf of the said entity for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have sent my hand and Notarial Seal, the day and year first above written.

Julie Nemetz Notary Public My commission expires: 9.14.2013



STATE OF CO
COUNTY OF Denver

I HEREBY CERTIFY, that on this 2 day of Oct 2009, before me, the subscriber, a Notary Public in and for the State of CO County of Denver, personally appeared Marta Kotak, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged himself to be the SVP of Wells Fargo Bank, NA, Beneficiary, that he has been duly authorized to execute, and has executed, the foregoing instrument on behalf of the said entity for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have sent my hand and Notarial Seal, the day and year first above written.

Julie Nemetz Notary Public My commission expires: 9.14.2013

