



Doc ID: 009633640023 Type: CRP
Recorded: 01/08/2010 at 02:22:30 PM
Fee Amt: \$80.00 Page 1 of 23
Pitt County, NC
Deborah T Barrington REG OF DEEDS
BK 2707 PG 552-574

File: Scott Browning

**Declaration of Condominium
Under the Provisions of Chapter 47C of the General Statutes
of the State of North Carolina, and
Covenants, Conditions and Restrictions
of
WILLOUGHBY PARK II Condominium**

This Declaration, made this 2nd day of August, 2009, by WILLOUGHBY CLARK, L.L.C., a North Carolina Limited Liability Company ("Declarant"), pursuant to Chapter 47C of the General Statutes of the State of North Carolina, hereinafter known as the "North Carolina Condominium Act" (also "the Act").

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of certain real estate situated in or near the City of Greenville, County of Pitt and State of North Carolina, legally described on **Exhibit "A"**, together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate except as hereinafter set forth; and,

WHEREAS, Declarant has retained all of the rights as to the land to submit it for the purpose of this condominium under the provisions of Chapter 47C of the General Statutes of North Carolina and as to all things stated in this Declaration; and,

WHEREAS, Declarant desires to submit all of said property to the Act.

NOW, THEREFORE, Declarant, as the owner of said property, hereby declares as follows:

**ARTICLE I
Definitions**

Definitions. As used herein, the following words and terms shall have the following meanings:

1.1. Act. The North Carolina Condominium Act, Chapter 47C, of the North Carolina General Statutes.

1.2. Additional Real Estate. The real estate described in **Exhibit A-1**, together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate.

1.3. Association. WILLOUGHBY PARK II Condominium Association, Inc., a nonprofit corporation organized under the laws of the State of North Carolina.

1.4. Board. The Board of Directors of the Association.

1.5. Bylaws. The Bylaws of the Association, which are hereby incorporated herein and made a part hereof by this reference.

1.6. Common Elements. All portions of the condominium except the units. Limited common elements are common elements.

1.7. Common Expenses. Expenditures made or liabilities incurred by, or on behalf of, the Association, together with any allocations to reserves.

1.8. Condominium. The condominium created by this Declaration.

1.9. Declarant. Developer and (i) any other person who has executed this Declaration or who hereafter executes an amendment to this Declaration to add additional real estate, except security holders and except persons whose interests in the property will not be conveyed to unit owners; and (ii) any person who succeeds to any special Declarant rights pursuant to Section 3-104 of the Act.

1.10. Declarant Control Period. The period commencing on the date hereof and continuing until the earlier of (i) the date ten (10) years after the date of the first conveyance of a unit to a unit owner other than a Declarant; or (ii) the date upon which Declarant surrenders control of the condominium; or (iii) one hundred twenty (120) days after conveyance of seventy-five percent (75%) of the units (including units which may be created pursuant to special Declarant rights) to unit owners other than a Declarant; or (iv) two (2) years after the Declarant has ceased to offer units for sale in the ordinary course of business; or (v) two (2) years after any development right to add new units was last exercised.

1.11. First Mortgage and First Mortgagee. A first mortgage is a mortgage or deed of trust which has been recorded so as to give constructive notice thereof and which is a first lien on the units described therein. A first mortgagee is the holder, from time to time, of a first mortgage as shown by the records of the office in which the first mortgage is recorded, including a purchaser at foreclosure sale upon foreclosure of a first mortgage until expiration of the mortgagor's period of redemption. If there be more than one holder of a first mortgage, they shall be considered as, and act as, one first mortgagee for all purposes under this Declaration and the Bylaws.

1.12. Limited Common Elements. Those portions of the common elements allocated by operation of Section 2-102(2) or (4) of the Act for the exclusive use of one, but fewer than all, of the units and also any limited common elements specifically allocated to units on Exhibit "B".

1.13. Occupant. Any person or persons in possession of a unit, including unit owners, the family members, lessees, guests and invitees of such person or persons, and family members, guests and invitees of such lessees.

1.14. Person. A natural person, corporation, limited liability company, partnership, trust or other entity, or any combination thereof.

1.15. Property. The real estate described on Exhibit "A" and the additional real estate described on Exhibit "A-1", if added by Declarant pursuant hereto, together with all building and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate.

1.17. Security for an Obligation. The vendor's interest in a contract for deed, mortgagee's interest in a mortgage, trustee's interest in a deed of trust, purchaser's interest under a sheriff's sale during the period of redemption, or the holder's interest in a lien.

1.18. Security Holder. Any person owning a security for an obligation in a unit.

1.19. Special Declarant Rights. The rights reserved herein and in the Bylaws for the benefit of a Declarant, including all rights stated in Section 1-103(23) of the Act including, not by way of limitation, the following: to complete the improvements indicated on the condominium plans; to maintain sales offices, management offices, models and signs advertising the condominium; to use easements through the common elements; to elect, appoint or remove members of the Board during the Declarant control period; and the right but not the obligation to add any or all of the property described on exhibit A-1

1.20. Unit. A portion of the condominium, whether or not contained solely or partially within a building, together with its percentage of undivided interest in the common elements as set forth on **Exhibit "C"**. Each unit is designated and delineated on the condominium plans.

1.21. Unit Boundaries. The boundaries of each unit, both as to vertical and horizontal planes, as shown on the condominium plans, are the undecorated surfaces of the perimeter walls, exterior doors and exterior windows facing the interior of the unit, and the topmost surfaces of the subflooring. Included within the boundaries of the unit is the decoration on all interior surfaces, including, without limitation, all paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the decorated surfaces thereof. Also included within the boundaries of a unit are all spaces, interior partitions and other fixtures and improvements. Except as herein specified, the unit boundaries shall be as set forth in Section 2-102 of the Act.

1.22. Unit Owner. The person or person, including the Declarant, owning a unit in fee simple.

1.23. Other Definitions. The definitions as contained in the Act, including Section 1-103, which are not in conflict with the foregoing definitions, have the meanings as stated in the Act.

ARTICLE II
Submission of Property to the Act

2.1. Submission. Developer hereby submits the property as shown on Exhibit "A" to the Act. This parcel of land includes Building 100 which is described on a Map of record entitled Building 100, WILLOUGHBY PARK II Condominiums, dated 9/21/09, prepared by Stroud Engineering, P.A. and recorded in Condominium Book 3 at page 123 of the Pitt County Registry.

2.2. Name. The property shall hereafter be known as WILLOUGHBY PARK II Condominium.

2.3. Location. The property subject to this Declaration is entirely located in Pitt County, North Carolina.

2.4. Plats and Plans. The initial plats and plans of WILLOUGHBY PARK II CONDOMINIUMS are recorded at the Register of Deeds of Pitt County, North Carolina in Condominium Book 3 at page 123-127 and are entitled "Building 100" WILLOUGHBY PARK II Condominiums.

2.5. Division of Property into Separately Owned Units. Developer, pursuant to the Act, and to establish a plan of condominium ownership for the condominium, does hereby divide the property into units and does hereby designate all such units for separate ownership, subject, however, to the provisions of Section 2.6 hereof.

2.6. Alterations of Units. Subject to the provisions of the Bylaws, a unit may be altered pursuant to the provisions of Section 2-111 of the Act.

2.7. Limited Common Elements. The limited common elements serving or designated to serve each unit are hereby allocated solely and exclusively to each unit. In addition to those defined in Section 1.13, limited common elements include those set forth on Exhibit "B" and are hereby allocated to units as shown on **Exhibit "B"**.

2.8. Unit Allocations. The allocations to each unit of a percentage of undivided interest in the common elements, of votes in the Association, and of a percentage of the common expenses, are as stated on Exhibit "C". The votes in the Association are allocated to all units as stated on **Exhibit "C"**.

2.9. Encumbrances. The liens, defects and encumbrances on the property to which the rights of unit owners and occupants are hereby made subject are set out on **Exhibit "D"**.

2.10. Reservation of Special Declarant Rights. Declarant hereby reserves all special Declarant rights as herein stated and as further defined by the Act and specifically stated in Section 1-103 (23) of the Act.

2.11. Declarant Control Period. Declarant reserves the right to control the Association as set forth in Section 1.10 of the Declaration and further defined in Section 3-103(d) and (e) of the Act.

ARTICLE III

Additional Real Estate and Condominium Expansion

3.1. Declarant's Right to Develop and Add Additional Real Estate. Declarant expressly reserves the right to add all or any portion of the additional real estate to the condominium by recording of an amended Declaration as set forth in Sections 2-117 and 2-118 of the Act. All or part of the additional real estate identified and described on Exhibit "A-1" may be added to the condominium at different times, but no assurances are made in regard to the order in which such portions may be added. Declarant shall have no duty or obligation of any kind to add any or all of the additional real estate. Notwithstanding the foregoing, developer shall retain all voting rights for any units that have not been sold at the end of the

Declarant control period. The method of adding the additional real estate to the condominium shall be pursuant to Section 2-110 of the Act.

3.2. Maximum Number of Additional Units; Units Restricted to Residential Use. The maximum number of units in the condominium is seventy-two (72) units. This number of units is based on the calculation that each building contains six units and that all of the areas available to be annexed into the condominium are in fact annexed. No assurances are given by this paragraph that any of the area will be annexed beyond Phase 1, as shown in Exhibit A. No other units are required to be annexed by the developer and are labeled on the plans as "need not be annexed".

3.3 Expansion by Merger. At the inception of this condominium, no expansion by merger or consolidation of the condominium is contemplated. The condominium does have and reserves the right to expand by merger with any other legally separate project pursuant to Section 2-121 of the Act. No merger or consolidation shall be effective unless agreed to by unit owners who represent at least 67% of the votes in the Association. Any document of merger shall be in writing and recorded in the Office of the Register of Deeds of Pitt County and shall comply with Section 2-121(c) of the Act.

3.4 Property Rights of Unit Owners in Added Areas. Unit owners in new phases of the condominium shall share an undivided interest in the project's total common elements. Such undivided interest shall be calculated and recalculated from time to time as new phases are added as set forth in Exhibit "C".

3.5 Intestinally omitted.

3.6. Applicability of Restrictions. All restrictions in this Declaration and the Bylaws effecting use, occupancy and alienation of units will apply to any and all additional units within the additional real estate.

3.7. Other Improvements and Common Elements. In addition to the buildings and units that are erected upon the additional real estate or a portion thereof, the other improvements and common elements upon or within the additional real estate, or each portion thereof which may be added to the condominium, are generally similar in quality and quantity to the improvements and common elements located in the condominium.

3.8. Applicability of Assurances if Additional Real Estate Not Added. The assurances made in this Article III will not apply with respect to any additional real estate that is not added by an Amended Declaration to the Condominium.

ARTICLE IV
Easements

4.1 Owner's Easements. Each unit owner shall have an unrestricted right of ingress, egress and regress to the unit owned by said owner. This right shall be perpetual and passes with each unit sale to each new and subsequent owner of the unit. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of any individual interest in the common elements shall be void unless the unit to which that interest is allocated is also transferred.

4.2. Encroachments. In the event that, by reason of the construction, reconstruction, repair, shifting, settlement, other movement of any portion of the improvements, rehabilitation, alteration or improvement of the buildings or improvements comprising a part of the property, any part of the common elements now or hereafter encroaches upon any part of any unit, or any part of any unit now or hereafter encroaches upon any part of the common elements, or upon any part of another unit, an easement for the continued existence and maintenance of each such encroachment is hereby declared and granted and shall continue for so long as each such encroachment exists; provided that in no event shall an easement for such encroachment be created if such encroachment is detrimental to or interferes with the reasonable use and enjoyment of the common elements or units so encroached upon.

4.3. Easements Through Walls. Easements are hereby declared and granted to the Association and to such persons as are authorized by the Association to install, lay, maintain, repair and replace any chutes, flues, ducts, vents, pipes, wires, conduits and other utility installations, and structural components running through the walls of the units, whether or not such walls lie in whole or in part within the boundaries of any unit.

4.4. Easements to Repair, Maintain, Restore and Reconstruct. Wherever in, and whenever by, this Declaration, the Bylaws or the Act, a unit owner, the Association, the Board, or any other person, is authorized to enter upon a unit or the common elements to repair, maintain, restore or reconstruct all or any part of a unit or the common elements, such easements as are necessary for such entry and such repair, maintenance, restoration or reconstruction are hereby declared and granted.

4.5. Declarant's Easement. Declarant hereby reserves such easements through the common elements as may be reasonably necessary for the purposes of discharging its obligations, exercising special Declarant rights, and completing the development and construction of the condominium, which easements shall exist as long as reasonably necessary for such purposes.

4.6. Easements to Run with Land. All easements and rights described in this Article IV are appurtenant easements running with the land and, except as otherwise expressly provided in this Article IV, shall be perpetually in full force and effect and shall inure to the benefit of and be binding upon Declarant, the Association, unit owners, occupants, security holders and any other person having any interest in the condominium or any part of any thereof. The condominium and every part thereof shall be conveyed and encumbered subject to and together with all easements and rights described in this Article IV, whether or not specifically mentioned in any such conveyance or encumbrance.

ARTICLE V
Restrictions, Conditions and Covenants

5.1. Compliance with Declaration, Bylaws and Rules and Regulations. Each unit owner and occupant shall comply with all applicable provisions of the Act, this Declaration, the Bylaws, the Articles of Incorporation of the Association, and rules and regulations promulgated by the Board or the Association, as amended. Failure to comply shall be grounds for an action by the Association, an aggrieved unit owner, or any person adversely affected, for recovery of damages, injunction or other relief.

5.2. Administration of Condominium. The condominium shall be administered in accordance with the provisions of the Act, this Declaration and the Bylaws.

5.3. Use Restricted; Use by Declarant.

(a) The units shall be occupied and used by unit owners and occupants for residential purposes only.

(b) No "For Sale" or "For Rent" signs or other window displays or advertising shall be maintained or permitted by any unit owner or occupant on any part of the condominium without the prior written consent of the Board or as provided for by the rules and regulations promulgated from time to time by the Board or the Association or in the Bylaws.

(c) The foregoing provisions of this Section or any other provision of this Declaration or the Bylaws notwithstanding, Declarant may maintain signs, sales offices for sales of units in the condominium and models for the purpose of demonstrating units to be sold. Declarant shall have the right to relocate, from time to time, and to discontinue and reestablish, from time to time, signs, sales offices for sales of units in the condominium and models within the condominium, until all of the units have been conveyed to a unit owner other than a Declarant, any one or more of such offices or models. Declarant also shall have the right to change the use or combination of uses of such signs, offices or models, provided that such offices or models shall be used only for sales offices or models. Where there are unsold units in the project still owned by the Declarant, the Declarant, subject to the provisions of 6.2(a) of this Declaration, shall have the same rights and duties of any unit owner.

(d) Declarant also may maintain signs on the common elements advertising the condominium until all of the units have been conveyed to unit owners other than a Declarant. Declarant shall remove all such signs not later than thirty (30) days after all of the units have been conveyed to unit owners other than Declarant and shall repair or pay for the repair of all damage done by removal of such signs.

(e) The foregoing provisions of this Section or any other provision of this Declaration or the Bylaws notwithstanding, the Association may maintain an office in the condominium for management of the condominium.

5.4. Hazardous Use and Waste. Nothing shall be done to or kept in any unit or the common elements that will increase any rate of insurance maintained with respect to the condominium without the prior written consent of the Board. No unit owner or occupant shall permit anything to be done to or kept in his unit or the common elements that will result in the cancellation of insurance maintained with respect to the condominium, or that would be in violation of any law, or that will result in the commitment of waste (damage, abuse or destruction) to or in his unit or the common elements.

5.5. Alterations of Common Elements. No unit owner or occupant, except Declarant during the Declarant control period, shall alter, construct anything upon, or remove anything from, the common elements, or paint, decorate, landscape or adorn any portion of the common elements, without the prior written consent of the Board. Nothing herein shall prohibit the relocation of boundaries between adjoining units pursuant to Section 2-112 of the Act.

5.6. Nuisance. No noxious or offensive activity shall be conducted upon any unit or in the common elements nor shall anything be done thereon which may or may become an annoyance or nuisance to the unit owners.

5.7. Outside Antennas. Outside radio or television antennas or other similar reception devices (including satellite discs) will not be permitted on the condominium property without application to the Board. The Board, in its sole discretion, may permit such outside radio or television antennas or other similar reception devices (including satellite discs) subject to the rules and regulations adopted by the Board.

5.8. Prohibition of Renting for Transient or Hotel Purposes; Leases. No unit owner shall rent his unit for transient or hotel purposes which, for purposes of this Declaration, shall be defined as either a rental for any period less than thirty (30) days or any rental if the lessee of the unit provides customary hotel services. Each permitted lease shall lease an entire unit, shall be in writing, and shall be subject to this Declaration and the Bylaws, and any failure of the lessee to comply with the terms of such documents shall be a default under the lease. Any unit owner who enters into a lease of his unit shall promptly notify the Association of the name and address of each lessee, the unit rented, and the term of the lease. Other than the foregoing restrictions, each unit owner shall have the full right to lease his unit. No lease, however, shall relieve owner from any liabilities or duties herein nor shall any owner's privileges in any way be changed because of said lease. No sublease may be entered into without the written consent of the Board.

5.9. Intestinally omitted

5.10. Pets. No pet shall be allowed in the condominium except as may be provided by the rules and regulations promulgated from time to time by the Board or the Association or in the Bylaws. Notwithstanding the foregoing, no animals, livestock, or poultry of any kind shall be kept or maintained in any condominium or in the common elements except dogs, cats, or other household pets; provided that such pets are not maintained or kept for commercial purposes; and provided further that, notwithstanding the foregoing, the Board may exclude any pet permitted by this paragraph which it, in its sole discretion, deems to be a nuisance to other unit owners or the Association.

5.11. Rules and Regulations. In addition to the foregoing restrictions, conditions and covenants concerning the use of the condominium, reasonable rules and regulations not in conflict therewith and supplementary thereto may be promulgated and amended from time to time by the Board or the Association, as more fully provided in the Bylaws. Not by way of limitation, the Board may regulate parking in the common areas and may include restrictions on the parking (or may exclude the parking) of oversized vehicles, motorcycles, boats, trailers, and other vehicles or objects, which in the Board's discretion detract from the overall appearance of the common areas and/or limit the use of the common areas by the unit owners.

5.12. Use of Limited Common Elements. Limited common elements assigned to the exclusive use of one or more units shall be kept in a clean and orderly manner. The Board may act as it deems necessary as to the limited common elements in the same manner as it would protect the common elements.

5.13. Restrictions, Conditions and Covenants to Run with Land. All such restrictions, conditions and covenants shall be deemed to be covenants running with the land, and shall bind every person having any interest in the property, and shall inure to the benefit of every unit owner.

ARTICLE VI
Assessments

6.1. Assessment Liens. The Board has the power to levy assessments against the units for common expenses. Such assessments shall be a lien on the units against which they are assessed at the time of assessment; and if any payment thereof becomes delinquent, the lien may be foreclosed and the unit sold, or a money judgment obtained against the persons liable therefore, all as set forth in the Bylaws. Notwithstanding the provision of 6.2, such lien is not released by the sale or transfer (except for foreclosure pursuant to North Carolina law) of such unit. The Board shall have all powers to pursue assessment liens pursuant to Section 3-116 of the Act.

6.2. Maximum Monthly Basic Assessment. Until January 1 of the year immediately following the conveyance of the first unit to an owner, the maximum monthly basic assessment shall be one hundred and twenty-nine dollars (\$129.00) per unit, including insurance.

(a) No dues shall be due to the Association until the closing of the sale of the first Unit in a particular building whereupon dues for all units in the particular building shall commence. The dues on the unoccupied Units shall be calculated by deleting from the monthly budgeted dues the cost components for water and sewer, and management fees as the unoccupied units owned by the Declarant are without cost for the same. Amounts budgeted for reserves for future maintenance and repairs of the common elements shall not be included in the monthly dues as to unoccupied Units until the month beginning on January 1 of the second full year following closing of the first Unit in a particular building.

(b) From and after January 1 of the year immediately following the conveyance of the first Unit to a Unit Owner, the budgeted dues may be increased each year not more than ten percent (10%) above the maximum assessment for the previous year without a vote of the membership.

(c) From and after January 1 of the year immediately following the conveyance of the first unit to an owner, the budgeted dues may be increased above ten percent (10%) by a vote of at least 67% of the votes in the Association, voting in person or by proxy, at a meeting duly called for this purpose or at the annual meeting of the Association.

(d) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

6.3. Working Capital Fund, Reserves and Special Assessments

(a) Working Capital Fund. The Board shall establish a working capital fund for the use and benefit of the Association to meet unforeseen expenditures or to purchase any additional equipment. The working capital fund shall be established at the time of the first sale of a unit in the initial phase of the condominium at which time the Purchaser of the unit shall contribute a sum equal to two months estimated common expenses at the time of closing. Thereafter, at the time of sale of each of the units in the original phase, or any additional phase of the condominium, the Purchaser of each unit shall contribute a sum equal to two months estimated common expenses for the unit sold. The working capital fund shall not be considered as advanced payments of regular assessments. Such regular assessments shall become due and payable as stated in this Declaration notwithstanding the provisions of this paragraph. The working capital fund shall be transferred to the Association (if not sooner transferred by the Declarant) to be deposited and

maintained by the Association in a segregated fund at such time as control of the condominium is transferred to the unit owners. During the Declarant Control Period as set forth in Paragraph 1.10 of this Declaration, Declarant may not use any of the funds from the working capital fund to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits.

(b) Reserves. The Board, in establishing the annual budget, may designate a sum to be collected and maintained out of the annual assessment as a reserve fund for capital replacements and improvements to the Common Elements (the "Capital Improvement Fund"). The Capital Improvement Fund shall be for the purpose of enabling the Association to replace or improved structural elements and mechanical equipment constituting a part of the Common Elements, as well as the replacement and the improvement of other portions of the Common Elements. Such capital replacement and improvement includes, by way of illustration and not of limitation, repainting of the exterior of the Condominium, roof replacement, repaving and restriping of drives and parking areas. The amount to be allocated to the Capital Improvement Fund shall be established by the Board so as to collect and maintain a sum reasonably necessary to anticipate the need for replacement or improvement of Common Elements. The amount collected for the Capital Improvement Fund may be maintained in a separate account by the Association and such monies are intended to be used only to make capital improvements to the Common Elements except with the approval of Board after determining that the remaining funds in the Capital Improvement Fund are adequate. Any interest earned on monies in the Capital Improvement Fund may, in the discretion of the Board of the Association, be expended for current operation and maintenance.

(c) Special assessments. In addition to the annual assessment, including any annual assessments under a regular or amended annual budget, and subject to the approval of the unit owners as hereinafter provided, the Board may levy a special or supplemental assessment applicable to that year only or over more than one year for the purposes of defraying, in whole or in part, the cost of any construction, reconstruction, alteration, improvement, repair or replacement of the Common Elements, including fixtures and personal property related thereto, or of paying budget shortfalls and cost and expenses associated with emergencies, unforeseen events or other unbudgeted matters. Any such special assessment shall have the assent of two thirds (2/3rds) or more of the total votes of the Owners who are voting in person or by proxy at a meeting duly called for this purpose.

Written notice of any meeting call for the purpose of approving a special assessment shall be sent to all owners of not less than 10 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Owners, in person or by proxy, entitled to cast 50% of all the votes in the Association shall constitute a quorum. If the required quorum is not present, the meeting may be adjourned by a majority vote of those present or by proxy and the required quorum at the next meeting shall be reduced by one half of the required quorum for the previously adjourned meeting. No such subsequent meeting shall be held more than 60 days following the previously adjourned meeting.

6.4. Personal Liability of Transferees; Statement; Liability of First Mortgagee.

(a) The personal obligation for assessments which are delinquent at the time of transfer of a unit shall not pass to the transferee of said unit unless said delinquent assessments are expressly assumed by said transferee.

(b) Any transferee referred to in (a) above shall be entitled to a statement from the Board, pursuant to Section 8.11 of the Bylaws, and such transferee's unit shall not be subject to a lien for any unpaid assessments against such unit in excess of the amount therein set forth.

(c) Where a first mortgagee or other person claiming through such first mortgagee, pursuant to the remedies provided in a mortgage or deed of trust, or by foreclosure or by deed, or assignment, in lieu of foreclosure, obtains title to a unit, the liability of such first mortgagee or such other person for assessments shall be only for the assessments or installments thereof that would become delinquent, if not paid, after acquisition of title. For purposes hereof, title to a unit shall be deemed acquired by foreclosure upon expiration of the applicable period of redemption.

(d) Without releasing the transferor from any liability therefore, any unpaid portion of assessments which is not a lien under (b) above or resulting, as provided in (c) above, from the exercise of remedies in a mortgage or deed of trust or by foreclosure thereof or by deed or assignment, in lieu of such foreclosure, shall be a common expense collectible from all unit owners, including the transferee under (b) above and the first mortgagee or such other person under (c) above who acquires ownership by foreclosure or by deed, or assignment, in lieu of foreclosure.

6.5. Prohibition of Exemption from Liability for Contribution toward Common Expenses. No unit owner may exempt himself from liability for his share of the common expenses assessed by the Association by waiver of the use or enjoyment of any of the common elements or by abandonment of his unit or otherwise.

ARTICLE VII
Management, Maintenance, Repairs, Replacements,
Alterations and Improvements

7.1. Common Elements.

(a) By the Association. The management, replacement, maintenance, repair, alteration and improvement of the common elements shall be the responsibility of the Association, and, subject to the provisions of Section 7.2 hereof, the cost thereof shall be a common expense to the extent not paid by unit owners pursuant to Section 7.1(b) hereof. All damage caused to a unit by any work on or to the common elements done by or for the Association shall be repaired by the Association, and the cost thereof shall be a common expense.

(b) By Unit owners. Each unit owner shall pay all costs to repair and replace all portions of the common elements that may become damaged or destroyed by reason of his intentional acts or the intentional acts of any occupant of his unit. Such payment shall be made upon demand made by the Association.

7.2. Common Expenses Associated with Limited Common Elements or Benefiting Less than all Units.

(a) Any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the unit, or in equal shares to the units, to which such limited common element was allocated at the time the expense was incurred, provided, however, that

routine maintenance and repair to exterior surfaces located within limited common areas done in conjunction with routine maintenance and repair to the building as a whole, such as painting of the entire structure, may be born as a common expense without such allocation, at the discretion of the Board.

(b) In addition, the Association may assess any common expense as to limited common elements benefiting less than all of the units against the units benefited in proportion to their common expense liability.

7.3. Units. Each unit owner shall maintain his unit at all times in a good and clean condition, and repair and replace, at his expense, all portions of his unit; shall perform his responsibilities in such manner as not to unreasonably disturb other occupants; shall promptly report to the Board, or its agent, any defect or need for repairs the responsibility for which is that of the Association; and, to the extent that such expense is not covered by the proceeds of insurance carried by the Association, shall pay all costs to repair and replace any portion of another unit that has become damaged or destroyed by reason of his own acts or omissions, or the acts or omissions of any occupant of his unit. Such payment shall be made upon demand by the unit owners of such other unit. Nothing herein contained shall modify any waiver by insurance companies of rights of subrogation.

7.4. Waiver of Claims. Except only as provided in Section 7.5(a) and (b), the Association agrees that it shall make no claim against a unit owner or occupant, and each unit owner and occupant agrees that he shall make no claim against the Association, the members of the Board, officers of the Association, or employees or agents of any thereof, or against any manager retained by the Board, or his or its officers, directors, employees or agents, or other unit owners or occupants, for any loss or damage to any of the property, or to a unit or personal property therein, even if caused by the omission or neglect of any one or more of such persons; and all such claims are hereby waived and released; provided, that this waiver shall not apply to any such loss or damage due to intentional acts.

7.5. Right of Entry.

(a) By the Association. The Association, and any person authorized by the Association, may enter any unit or any of the limited common elements in case of any emergency or dangerous condition or situation originating in or threatening that unit or any of the limited common elements. The Association, and any person authorized by the Association, after reasonable notice to a unit owner or occupant, may enter that unit or any of the limited common elements for the purposes of performing any of the Association's duties or obligations or exercising any of the Association's powers under the Act, this Declaration or the Bylaws with respect to that or any other unit, any limited common elements, or the common elements. Notwithstanding Section 7.4, the Association shall be responsible for the repair of any damage caused by the Association or its authorized person to the entered unit, and the cost thereof shall be a common expense. All such entries shall be made and done so as to cause as little inconvenience as possible to the unit owner and occupant of the entered unit or any portion of the limited common elements allocated to the unit owner.

ARTICLE VIII
Insurance

8.1. Property Insurance. The Association shall maintain hazard and flood insurance (if required and except in cases where flood insurance is not available) upon the property in the name of, and the proceeds thereof shall be payable to, the Association, as trustee for all unit owners and security holders as their interests may appear, and be disbursed pursuant to the Act. Such insurance shall be in an amount equal to not less than 100% of the replacement cost of the insured property (after the application of any deductibles) on a replacement cost basis and shall insure against such risks and contain such provisions as the Board, from time to time, shall determine, but at a minimum shall conform in all respects to the requirements of Section 3-113 of the Act, and shall provide that, notwithstanding any provision thereof that gives the insurer an election to restore damage in lieu of making a cash settlement, such option shall not be exercisable if such restoration is prohibited pursuant to Section 3-113(h) of the Act.

8.2. Public Liability Insurance. The Association shall maintain public liability insurance for the benefit of the unit owners, occupants and holders of a vendor's interest in a contract for deed on a unit, the Association, the Board, the manager, if any, the Declarant, and their respective officers, directors, agents and employees, in such amounts and with such coverage as shall be determined by the Board; provided that the public liability insurance shall be for at least One Million Dollars (\$1,000,000.00) per occurrence for death, bodily injury and property damage. Said insurance shall contain a severability-of-interest endorsement precluding the insurer from denying liability because of negligent acts of any insured; insure all of such benefited parties against such liability arising out of or in connection with the use, ownership or maintenance of the common elements, and the streets, sidewalks and public spaces adjoining the condominium; and insure the Association, the Board, the manager, if any, and their respective officers, directors, agents and employees against such liability arising out of or in connection with the use or maintenance of the units.

8.3. Fidelity Coverage. Fidelity coverage may be maintained by the Association in commercial blanket form covering each director and officer of the Association, any employee or agent of the Association and any other person handling or responsible for handling funds of the Association in the face amount of at least the greater of, (i) one and one-half (1-1/2) times the estimated annual operating expenses and reserves of the Association, or (ii) the sum of three (3) months' aggregate assessments on all units plus the Association's reserve funds. Such coverage shall contain an appropriate endorsement to cover persons who serve without compensation. The premiums on such bonds shall be a common expense.

8.4. Other Insurance. The Association may procure such other insurance, including worker's compensation insurance, as it may, from time to time, deem appropriate to protect the Association or the unit owners.

8.5. Insurance Trustee. The Board may engage, and pay as a common expense, any appropriate person to act as an insurance trustee to receive and disburse insurance proceeds upon such terms as the Board shall determine, consistent with the provisions of the Act and this Declaration.

8.6. Individual Policy for Unit Owners. Each unit owner may obtain insurance, at his own expense, affording personal property, additional living expense, condominium assessment, personal liability, and any other coverage obtainable, to the extent and in the amounts such unit owner deems necessary to protect his own interests; provided that any such insurance shall contain waivers pursuant to Section 7.3 and shall provide that it is without contribution as against the insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of the proceeds that would otherwise be payable on the insurance purchased by the Association due to the proration of insurance purchased by a unit owner under this Section, such unit owner shall be liable to the Association to the

extent of such reduction and shall pay the amount of such reduction to the Association upon demand, and assigns the proceeds of his insurance, to the extent of such reduction, to the Association.

ARTICLE IX
Casualty Damage

If all or any part of the property shall be damaged or destroyed, the same shall be repaired or replaced, and proceeds of insurance shall be used and applied in accordance with the provisions of Section 3-113 of the Act.

ARTICLE X
Condemnation

In the event of a taking by eminent domain, or by a conveyance in lieu thereof, of all or any part of the property, the same shall be repaired or restored, and the awards paid on account thereof shall be used and applied in accordance with Section 1-107 of the Act. The Association is designated as attorney-in-fact to represent the unit owners in all legal proceedings involving condemnation.

ARTICLE XI
Termination

The condominium may be terminated only in strict compliance with Section 2-118 of the Act.

ARTICLE XII
Amendment

12.1 This declaration may be amended in the following manner:

(a) An Amendment to this Declaration may be proposed by the Board of the Association acting upon a vote of a majority of its Board Members, or by Owners of Units to which more than 50% of the votes in the Association are allocated, whether meeting as members or by instrument in writing signed by them. Upon any amendment to this Declaration being proposed by the Executive Board or Owners, the proposed amendment shall be transmitted to the President of the Association, or other officer of the Association in the absence of the president, who shall thereupon call a special meeting of the members of the Association for a date not sooner than twenty (20) days nor later than sixty (60) days from receipt by him of the proposed amendment. It shall be the duty of the Secretary to give to each member written or printed notice of such special meetings, stating the time and place thereof, and reciting the proposed amendment in reasonable detailed form, which notice shall be mailed not less than ten (10) days nor more than 50 days before the date set for such special meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States Mail addressed to the member at his address as it appears all in the records of the Association, first class postage thereon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of notice to such member. Except as required by N. C. General Statutes Section 47 C-2-

117(d), or any provision of the Condominium Act, or as specifically provided elsewhere in this Declaration, an affirmative vote of, or written agreement signed by, Owners to which at least sixty-seven percent (67%) of the votes in the Association all are allocated shall be required in order for such Amendment to become effective. Upon adoption, such amendment of this Declaration shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted. The original or and executed copy of such amendment, so certified and executed with the same formalities as a deed, shall be recorded in the Public Registry. Such amendment shall specifically refer to the recording data identifying the Declaration and shall become effective upon recordation. Thereafter, a copy of said amendment in the form in which the same was placed of record by the officers of the Association shall be delivered to the Owners of all units, but delivery of a copy thereof shall not be a condition precedent to the effectiveness of such amendment. At any meeting held to consider such amendment, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association prior to such meeting or at such meeting.

- (b) Notwithstanding any other provision of this Declaration to the contrary, the Declarant shall have the right to amend this Declaration during the Declarant Control Period without the consent or joinder of any Owners or their mortgage lenders.
- (c) Except to the extent expressly permitted or required by this Declaration, consistent with the Condominium Act, no amendment to this Declaration may create or increase additional Development Right or Declarant's Rights, increase the number of Units allowed hereunder, or change the boundaries of any Unit, the allocated interest of a Unit, or the uses to which any Unit is restricted, without the unanimous consent of the Owners of all Units and the consent of Institutional Lenders, as hereinafter defined, as provided in paragraph (d) below.
- (d) No material alteration, amendment or modification of the Condominium Instruments shall become effective without the prior written consent of Institutional Lenders (as here in after defined) who represent at least fifty-one percent 51% of the votes of units that are subject to mortgages held by Institutional Lenders. For the purpose of this paragraph, any amendment to any of the provisions of the Condominium instruments governing the following shall be deemed material:
 - (i) voting rights;
 - (ii) increases in assessments that raised the previously assessed a mail by more than 10%, assessment liens, or the priority of assessment liens.
 - (iii) reductions in be reserved for maintenance, repair, and replacement of Common Elements;
 - (iv) responsibility for maintenance, repairs and replacements;
 - (v) redefinition of any Unit boundaries;
 - (vi) convertibility of Units into Common Elements or vice versa;
 - (vii) hazard or fidelity insurance or bond requirements;
 - (viii) imposition of any restrictions on the leasing of Units;
 - (ix) imposition of any restrictions on a Unit Owner's right to sale or transfer his or her Unit;
 - (x) a decision by the Association to establish self-management if professional management had been required previously by Association documents or by an eligible mortgage holder;
 - (xi) restoration or repair of the Condominium (after damage or partial destruction) in manner other than that specified in the Condominium Instruments; or
 - (xii) any provision that expressly benefit mortgage holders, insurers or guarantors.

Provided, however that nothing in this paragraph shall be construed to require the consent of an Institutional Lender as to amendments allowed as set forth in this Declaration. Provided farther, that an Institutional Lender shall be deemed to have approved any material amendment if it fails to respond to a written notice of amendment within thirty (30) days following its receipt of such notice, which notice was sent by certified or registered mail, "return receipt" requested.

- (e) notwithstanding any other provision to of this Declaration to the contrary, no alteration, amendment, modification or limitation one the exercise of these rights, easements and privileges granted and reserved hereunder in favor of Declarant, including but not limited to Development Rights and Special Declarant Rights, shall be made without the written consent of the Declarant being first had and obtained regardless of whether such alteration, amendment, modification or limitation is by amendment of the Condominium Instruments or by the adoption or amendment of rules and regulations.

ARTICLE XIII RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS

13.1 Rights reserved Unto Institutional Lenders. "Institutional Lender" or "Institutional Lenders" as the terms or use herein, shall mean and refer to those banks, savings and loan associations, insurance companies, other firms or entities customarily affording liens secured by liens on residences, the Federal Housing Administration (FHA), the Federal National Mortgage Association (FMNA), the Federal Timeline Mortgage Corporation (FHLMC) and eligible insurers and governmental guarantors which hold a first mortgage on the Unit, or are the Owner of any Unit and have served written notice one the Association as provided in this Article. In addition to any other rights set forth in this Declaration, so long as any Institutional Lender shall hold a first mortgage upon the Unit, or shall be the owner of any Unit, such Institutional Lenders shall have the following rights:

- (a) To be given timely written notice as to any lapse, cancellation or material modification of any insurance policy maintained by the Association.
- (b) To examine, at reasonable times and upon unreasonable notice, the books and records of the Association and the annual financial statement and report of the Association, prepared by an independent accountant designated by the Association, such financial statement and reports to be available within 120 days following the end of the Association's previous fiscal year.
- (c) To be given timely written notice by the Association of the call of any meeting to the members to be held for the purpose of considering any material alteration, amendment or modification of the Condominium Instruments as set out in paragraph (d) of Article XII of this Declaration, the timely written notice of any other action that requires the consent of a specified percentage of Institutional Lenders. Such notice shall state the nature of the amendment or action being proposed.
- (d) To be given timely written notice of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of 60 days) by any owner owning a Unit encumbered by a mortgage hailed by such Institutional Lender.
- (e) To be given timely written notice of any condemnation or casualty loss which affects either a material portion of the Condominium or Unit securing its mortgage.

Whenever any mortgage lender owning a Unit or holding a mortgage or deed of trust which is a first lien on a Unit desires to be an Institutional Lender for purposes of this Declaration and to have the provisions of this Declaration be applicable to it such lender shall serve or calls to be served written notice of such fact upon the Association by Registered Mail or Certified Mail addressed to the Association at its registered office identifying the Unit or Units upon which such Institutional Lender holds, insures or guarantees a person lien mortgage or mortgages, or identifying any Units deemed by such Institutional Lender, together with sufficient pertinent facts to identify any mortgage or mortgages which may be filled by such Institutional Lender, and which notice shall be designated the place to which notices or to be given by the Association to such Institutional Lender.

ARTICLE XIV
General Provisions

14.1. Conflict with the Act; Severability. Should any of the terms, conditions, provisions, paragraphs, or clauses of this Declaration conflict with any provisions of the Act, the provisions of the Act shall control unless the Act permits the Declaration to override the Act, in which event the Declaration shall control. The invalidity of any covenant, restriction, condition, limitation, provision, paragraph or clause of this Declaration, or of any part of the same, or the application thereof to any person or circumstance, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, or the application of any such covenant, restriction, condition, limitation, provision, paragraph or clause to any other person or circumstances.

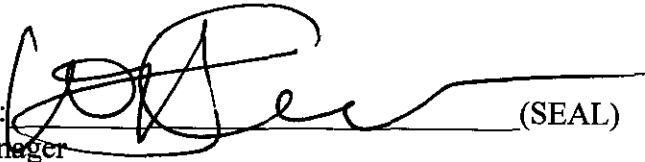
14.2. Interpretation of Declaration. Whenever appropriate, singular may be read as plural, plural may be read as singular, and the masculine gender may be read as the feminine or neuter gender. Compound words beginning with the prefix "here" shall refer to this entire Declaration and not merely to the part in which they appear.

14.3. Captions. The captions herein are only for convenience and reference and do not define, limit or describe the scope of this Declaration, or the intent of any provision.

14.4. Exhibits. Exhibits "A", "A-1", "B", "C", and "D" attached hereto are hereby made a part hereof.

IN WITNESS WHEREOF, Bill Clark Homes of Greenville, LLC has caused this instrument to be signed and sealed by its Manager or Managers on the day and year first above written.

WILLOUGHBY CLARK, L.L.C.,
A North Carolina Limited Liability Company

BY:  (SEAL)
Manager

NORTH CAROLINA

PITT COUNTY

I, the undersigned, a Notary Public of the County and State aforesaid, certify William H. Clark, and _____, as Manager or Managers of WILLOUGHBY CLARK, LLC, personally appeared before me this day and acknowledged the foregoing instrument. Witness my hand and official stamp or seal, this 8th day of January, 2009.
_{mes}

Melinda C. Stephens, Notary Public

My Commission expires: April 2, 2013

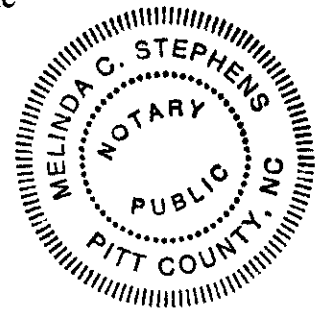


EXHIBIT 'A'
Legal Description for
Building 100
Willoughby Park II Condominiums

Lying and being in the City of Greenville, Winterville Township, Pitt County, North Carolina, being situated at the northwestern intersection of NCSR 1700 Evans Street and West Victoria Court, and being bounded on the north and west by Willoughby Clark II, LLC (Deed Book 2687, Page 347) and being more particularly described as follows:

Beginning at a new iron stake, a control corner, set at the intersection of the western right-of-way of NCSR 1700 Evans Street and the northern right-of-way of West Victoria Court, thence from the control corner N63°30'26"W - 25.00' to a point on the northern right-of-way of West Victoria Court, the True Point of Beginning.

Thence from the True Point of Beginning continuing along the northern right-of-way of West Victoria Court N63°30'26"W - 118.72' to a Parker Kalon nail set in an asphalt driveway, another control corner, thence leaving the northern right-of-way of West Victoria Court N26°29'34"E - 125.95' to a Parker Kalon nail set in an asphalt parking lot, thence parallel with the northern right-of-way of West Victoria Court S63°30'26"E - 143.72' to a new iron stake set on the western right-of-way of NCSR 1700 Evans Street, a control corner, thence along the western right-of-way of Evans Street S26°29'34"W - 100.95' to a point, thence with a curve to the right having a radius of 25.00' and being subtended by a chord of S71°29'34"W - 35.36' to the True Point of Beginning, containing 0.4156 Acre and being the property containing Building 100 of Willoughby Park II Condominiums, a portion of Parcel No. 47945 as filed with the Pitt County Tax Assessor's Office.

EXHIBIT 'A-1'

All that certain tract or parcel of land lying and being situate in Winterville Township, Pitt County, North Carolina and being more particularly described as follows:

All that certain tract or parcel of land bearing Pitt County tax parcel no. 42245 for the year 2009, containing 3.03 acres, more or less. Said property is a portion of the property described in, and conveyed by, the deed from Judson H. Blount, Jr. and wife, Kathryn H. Blount to William H. Clark and wife, Gloria E. Clark dated July 13, 1985, recorded in Book P54, Page 800 in the office of the Register of Deeds of Pitt County, and is the same property as Tract 2 in the deed from William H. Clark and wife, Gloria E. Clark to the party of the first part recorded in Book 2615 Page 1, in the office of the Register of Deeds of Pitt County, North Carolina, said parcel containing Buildings 3400, 3402, 3404, 3406, 3408, 3410, 3412, and 3414 of Willoughby Park Condominiums.

TOGETHER WITH all real property and undivided interests in real property now owned by the party of the first part located in Winterville Township, Pitt County, North Carolina and located south of Sara Lane as extended westwardly to the Seaboard Coastline Railroad (now or formerly), east of the Seaboard Coastline Railroad, north of West Victoria Court extended westwardly to the Seaboard Coastline Railroad, and west of Evans Street.

EXCEPT FOR

Lying and being in the City of Greenville, Winterville Township, Pitt County, North Carolina, being situated at the northwestern intersection of NCSR 1700 Evans Street and West Victoria Court, and being bounded on the north and west by Willoughby Clark II, LLC (Deed Book 2687, Page 347) and being more particularly described as follows:

Beginning at a new iron stake, a control corner, set at the intersection of the western right-of-way of NCSR 1700 Evans Street and the northern right-of-way of West Victoria Court, thence from the control corner $N63^{\circ}30'26''W - 25.00'$ to a point on the northern right-of-way of West Victoria Court, the True Point of Beginning.

Thence from the True Point of Beginning continuing along the northern right-of-way of West Victoria Court $N63^{\circ}30'26''W - 118.72'$ to a Parker Kalon nail set in an asphalt driveway, another control corner, thence leaving the northern right-of-way of West Victoria Court $N26^{\circ}29'34''E - 125.95'$ to a Parker Kalon nail set in an asphalt parking lot, thence parallel with the northern right-of-way of West Victoria Court $S63^{\circ}30'26''E - 143.72'$ to a new iron stake set on the western right-of-way of NCSR 1700 Evans Street, a control corner, thence along the western right-of-way of Evans Street $S26^{\circ}29'34''W - 100.95'$ to a point, thence with a curve to the right having a radius of 25.00' and being subtended by a chord of $S71^{\circ}29'34''W - 35.36'$ to the True Point of Beginning, containing 0.4156 Acre and being the property containing Building 100 of Willoughby Park II Condominiums, a portion of Parcel No. 47945 as filed with the Pitt County Tax Assessor's Office.

EXHIBIT "B"

LIMITED COMMON ELEMENTS

Each unit shall have those limited common elements as shown on the condominium plans and as set forth below:

1. Entrance walks, balcony access main entrance walks, and stairs. The entrance walks, balcony access main entrance walks, and stairs attached to each building shall be limited common elements for the joint use of all of the units which are served by the walks or stairs in the building.
2. Special limited common elements. Balconies or porches attached to any units shall be special limited common area reserved solely for the use of the owner of such unit. This however does not prevent the Board from passing such rules and regulations as to the appearance and/or up-keep of such special limited common area for the purpose of preserving and overall aesthetic appearance of condominium

EXHIBIT "C"

SECTION 3.4 CALCULATION OF OWNERSHIP INTEREST, COMMON EXPENSE LIABILITY AND VOTES IN THE ASSOCIATION

Unit No.	Percentage of Undivided Interest in Common Elements	Percentage of Common Expenses	Votes in Association
100-A	.1667	.1667	1
100-B	.1667	.1667	1
100-C	.1667	.1667	1
100-D	.1667	.1667	1
100-E	.1667	.1667	1
100-F	.1667	.1667	1

1. Percentage of Undivided Interest in Common Elements, Liability for Common Expenses (Not including Insurance), and Votes in Association. Percentage of undivided interest in common elements and liability for common expenses (except insurance as contained in Paragraph "2." below) shall be allocated equally to all units and shall be calculated by dividing 100% by the number of total units in the total condominium project. In the event additional real estate is added pursuant to this Declaration, the percentages as established herein shall be recalculated pursuant to this formula and included within any recorded amendment to this Declaration. Each unit shall be allocated one (1) vote in the Association..
2. Effective Date of Allocations. The allocations of undivided interest in the common elements, liability for common expenses and votes in the Association are effective on the date of the recording of this Declaration. In the event additional real estate is added to the condominium, the effective date of the allocations as stated above shall be the date of the recording of an Amended Declaration pursuant to Section 2-117 of the Act.

EXHIBIT "D"

LIENS, DEFECTS AND ENCUMBRANCES

1. Building and zoning laws and ordinances of the City of Greenville, the State of North Carolina and Federal Regulations.
2. The provisions of Articles of Incorporation, Declaration of Condominium and Bylaws of WILLOUGHBY PARK II Condominiums.
3. The Condominium plans.
4. Existing streets, alleys, utility easements and other easements of record, if any, and restrictions of record, if any.
5. The provisions of North Carolina General Statutes, Chapter 47C and other laws relevant to the condominium.
6. Current ad valorem taxes of the City of Greenville and Pitt County.