

SECOND AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
THE LOOKOUT AT BRUSHY CREEK

STATE OF TEXAS *

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF WILLIAMSON *

This Second Amendment to the Declaration of Covenants, Conditions and Restrictions of THE LOOKOUT AT BRUSHY CREEK (hereafter "Restrictions" or "Declarations") which Declarations are recorded under Clerk's Document Number 9905134 in the Official Public Records of Williamson County, Texas, as amended by First Amendment dated March 8, 1999 and recorded under Clerk's Document Number 9916045, in the Official Public Records of Williamson County, Texas, is made on the date herein set forth by BLUEGREEN SOUTHWEST ONE, L.P. formerly known as PROPERTIES OF THE SOUTHWEST, L.P., a Delaware Limited Partnership, authorized to do business in Texas, acting herein by and through its duly authorized General Partner, BLUEGREEN SOUTHWEST LAND, INC., a Delaware Corporation, authorized to do business in Texas ("Developer").

WITNESSETH

WHEREAS, Developer filed a plat on the 21st day of January which is recorded in Cabinet Q, slides 288-298, Plat Records, Williamson County, Texas. The plat covers 503.1092 acres and designates a subdivision as "THE LOOKOUT AT BRUSHY CREEK"; and,

WHEREAS, Developer desires to amend Section 3.05 of Article III of the Declaration of Covenants, Conditions and Restrictions to read as hereinafter recited, and,

WHEREAS, Developer desires to amend Section 3.11 of Article III of the Declaration of Covenants, Conditions and Restrictions to read as hereinafter recited, and,

WHEREAS, this Amendment conforms with Article 9.02 of said Restrictions authorizing the owner (including Developer) of two-thirds of all of the Lots to amend these Restrictions. Developer owns 207 lots out of the 256 lots giving the Developer a two-thirds (2/3) vote and the right to amend the restrictions; and,

WHEREAS, this Amendment also conforms with Article 9.03 of said Restrictions authorizing Developer to amend the Declarations at any time prior to the Control Transfer Date without the consent or joinder of any owner for the purpose of

correcting any oversight or ambiguity, and/or inconsistency; and,

WHEREAS, this Amendment is consistent with and in furtherance of the general planned scheme of development and does not impair or adversely affect any vested property or other right of any owner or his mortgagee and is executed and filed

NOW, THEREFORE, the Developer hereby revises and amends the Declaration of Covenants, Conditions and Restrictions as follows:

1. Section 3.05 of Article III is amended to read as follows

Section 3.05 Walls and Fences Walls and fences, if any, must be approved prior to construction by the Architectural Control Committee and shall not be closer to the front property line than the front line of the house on all Tracts, except those that front Brushy Creek Trail. Tracts that front Brushy Creek Trail must place a fence along the front property line and said fence must be of the same material and style as the subdivision fence along County Road 139 and 198. However, the maximum height of any fence shall be six (6) feet. No barbed, smooth, hog, chicken, chain link or like material/wire fencing is permitted on property, except that on five (5) acre or larger tracts the rear and side lot lines may be fenced with smooth or barbed wire and on any lot, light gauge wire fencing may be attached to the inside bottom portion of other approved fencing, as long as the light gauge wire does not exceed thirty-six (36) inches in height. All mailboxes must be of masonry construction and approved by the Architectural Control Committee.

2. Section 3.11 of Article III is amended to read as follows:

Section 3.11 Ponds and Dams. One or more ponds and/or dams are located on Lots 1, 2, 3, 4, 7, 8, 9, 10, 37, 38, 39, 40, 41, 43, 44, 45, 46, 62, 63, 64, 65, 66, 72, 73, 74, 176, 177, 184, 185, 186, 198, 199. The owners of lots that abut the ponds may not build any type of pier, floating raft, or any structure into or on the ponds. It is recognized that these ponds and/or dams are to be enjoyed by multiple owners. Therefore, no owner of a lot may alter or change a pond (including increasing or decreasing the water level by pump or other means) or a dam in such a way as to materially affect another lot owner without the express written permission of the other affected lot owner. Any change to the pond and/or dam must be approved by the Architectural Control Committee and such Committee shall not approve any change or alteration that, in their sole opinion, would materially affect the other lots unless all affected lot owners have agreed in writing. Any and all debris, of whatever nature, in any pond shall be removed by the owner of the underlying land, if necessary, to: (i) prevent the occurrence of a natural dam that would affect another lot owner or (ii) cause a reduction in the water quality or quantity. The cost of maintaining the pond

shall be borne by the lot owner on whose property that portion of the pond is located. The owner on whose lot the dam is located will maintain the dam in its present condition, to the best of the owner's ability and allow access through his property to the dam area, where repair work is necessary. However, if major repair work would be required on a dam, the cost shall be borne equally by all lot owners that abut the pond. If a dispute arises as to what is "major repair work" then the Architectural Control Committee will determine if such work is a major repair. Lot owners are responsible for obtaining any necessary governmental approval or licenses relating to the ownership of the ponds and/or dams. The owners of Lots 210 through 222 and Lots 227, 228, 229, 230 that abut Lookout Lake may not build any type of pier, floating raft or any structure into or on the Lake and may not materially increase or decrease the water level of the lake by means of a pump or other method. Notwithstanding anything above, the Developer and/or the Property Owners Association reserves the right to erect or place a fishing/observation deck or floating dock on the lake in "The Lookout Park" and/or to use the water from the lake for irrigation purposes. Furthermore, the Developer and/or the Property Owners Association shall have the sole discretion to determine all rules and regulations governing the permitted use of "The Lookout Park", as well as, the permitted use of the surface and shore line of "The Lookout Lake". The cost of maintaining "The Lookout Lake" (the largest body of water in the subdivision) and/or the dam shall be borne by the Property Owners Association.

Except as amended herein, the Restrictions shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, being the Developer and the owner of sixty-six and two-thirds Lots, has hereunto set its hand effective the 23rd day of April, 1999.

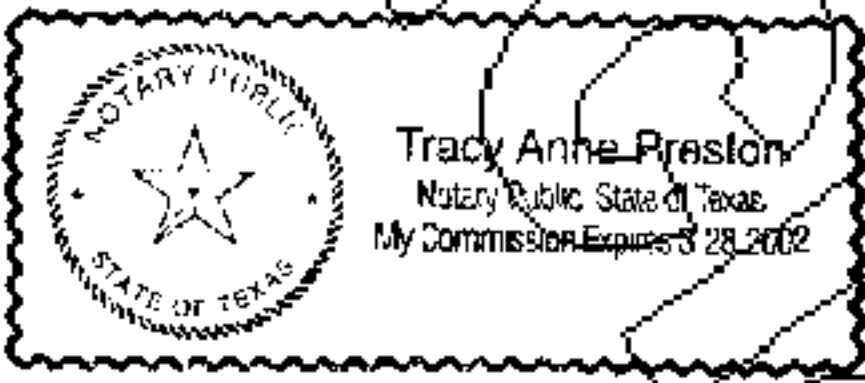
BLUEGREEN SOUTHWEST ONE, L.P., a
Delaware Limited Partnership by BLUEGREEN
SOUTHWEST LAND, INC., a Delaware
Corporation, General Partner.

By: 
JACK H. DEAN, Vice-President

THE STATE OF TEXAS *
COUNTY OF HAYS *

This instrument was acknowledged before me on the 23rd day of April, 1999, by JACK H. DEAN, Vice-President of BLUEGREEN SOUTHWEST LAND, INC., a Delaware Corporation, General Partner of BLUEGREEN SOUTHWEST ONE, L.P., a Delaware Limited Partnership, in the capacity therein stated, on behalf of said Corporation

Tracy Anne Preston
NOTARY PUBLIC, STATE OF TEXAS



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FILED AND RECORDED

Nancy E Rister

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NANCY E. RISTER
COUNTY CLERK
WILLIAMSON COUNTY, TEXAS
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DUPLICATE DOCUMENT