

Deed Book 13973 Pg 767  
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*Linda Carter*

Linda Carter  
Clerk of Superior Court DeKalb Cty. Ga.  
I AM NOT THE ONE TO SIGN FOR YOU I AM THE ONE TO SIGN FOR YOU I AM THE ONE TO SIGN FOR YOU

*2nd*

STATE OF GEORGIA  
COUNTY OF FULTON  
  
DEED BOOK 11738, PAGE 796  
DEKALB COUNTY, GEORGIA RECORDS

RETURN TO: MARIANNE T. SHAVER  
HUDNALL, COHN & ABRAMS, P.C.  
BUILDING 600, SUITE 105  
DULUTH, GEORGIA 30096

**FIRST AMENDMENT  
TO THE DECLARATION OF CONDOMINIUM OF  
PEACHTREE-MALONE CONDOMINIUMS**

This First Amendment to Declarant of Condominiums for Peachtree-Malone Condominiums is made and entered into this 4<sup>th</sup> day of October, 2002, by Peachtree-Malone II, LLC, a Georgia Limited Liability Corporation (hereinafter referred to as the "Declarant").

**WITNESSETH:**

WHEREAS, PEACHTREE-MALONE, LLC, in its original capacity as Declarant, executed and recorded of record that certain Declaration of Condominium for Peachtree-Malone Condominiums (herinafter the Declaration"); said Declaration being dated December 6, 2000 and recorded December 7, 2000 in Deed Book 11738, Page 796 in DeKalb County, Georgia records; and

WHEREAS, PEACHTREE-MALONE, LLC, has assigned all right, title and interest as Declarant to PEACHTREE-MALONE II, LLC, a Georgia Limited Liability Corporation, pursuant to that certain Assignment or Declarant Rights attached as Exhibit "A" hereto for recordation and for reference; and

WHEREAS, PEACHTREE-MALONE II, LLC is executing this Amendment in accordance with Article 10.03 of the Declaration; and

NOW, THEREFORE, for and in consideration of the above premises and for other good and valuable consideration it is hereby agree that the Declaration be further amended as follows:

1. ARTICLE 13.03 (A-E) of the Declaration shall be modified to read as follows:

**13.03 LEASING OF UNITS:**

In order to protect the equity of the individual Unit Owners, to carry out the purpose for which the Condominium was formed by preserving the character of the Condominium as a homogenous residential community of predominantly owner-occupied homes and by preventing the Condominium from assuming the character of a renter-occupied apartment complex, and to comply with the eligibility requirements for financing in the secondary mortgage market insofar as such criteria provide that the

project be substantially owner-occupied, leasing of Units shall be governed by the restrictions imposed by this Paragraph. Except as provided herein, the leasing of the Units shall be prohibited.

(a) Definitions:

- (i) Leasing shall mean the regular, exclusive occupancy of a Unit by any person(s) other than the Owner, for which the Owner receives any consideration or benefit including, but not limited to, a fee, service, gratuity or emolument. For purposes hereof, occupancy by a roommate of an Owner Occupant shall not constitute leasing.
- (ii) Open Leasing Status shall authorize a Unit to be leased at any time. Each unit shall have Open Leasing Status until such time as title is conveyed by the Declarant hereof, after which conveyance the Unit shall automatically be converted to Restricted Leasing Status. Open Leasing Status may also be conferred upon a Unit as provided in subparagraph (b) below.
- (iii) Restricted Leasing Status shall subject a Unit to the restrictions on leasing contained in subparagraph (b) below.

(b) General. No Owner of a unit in Restricted Leasing Status may lease his or her unit if twenty-five (25%) or more of the Units (excluding those owned by Declarant) in the Condominium are in Open Leasing Status, except as provided in subparagraph (c) below for cases of undue hardship. Any Owner of a Unit in Restricted Leasing Status may apply in writing to the Board for conversion to Open Leasing Status in accordance with rules and regulations promulgated by the Board. Upon receipt of such written application, the Unit shall be Placed at the end of the waiting list for conversion to Open Leasing Status. At such times as less than twenty-five percent (25%) of the Units are in Open Leasing Status, the Board shall notify the Owner of the Unit at the top of the waiting list of its conversion to Open Leasing Status. At such times as less than twenty-five percent (25%) of the Units are in Open Leasing Status, the Board shall notify the Owner of the Unit at the top of the waiting list of its conversion to Open Leasing Status, and such Owner shall have ninety (90) days within which to lease the Unit or it shall automatically revert to Restricted Leasing Status. Any unit in Open Leasing Status other than a Unit held by the Declarant for sale shall automatically be converted to Restricted Leasing Status if the Unit is not subject to an approved lease for ninety (90) or more consecutive days.

- (c) Undue Hardship. Notwithstanding the provisions of subparagraph (b) above, the Board shall be empowered to allow reasonable leasing of a Unit upon application in accordance with this Paragraph to avoid undue hardship, including, but not limited To the following situations: (1) a Unit Owner must relocate his or her residence outside the Atlanta metropolitan area and cannot, within six (6) months from the date that the Unit was placed on the market, sell the Unit except at a price below the current appraised market value, after having made reasonable efforts to do so; (2) where the Owner dies and the Unit is being administered by his or her estate; and (3) the Owner takes a leave of absence or temporarily relocate and intends to return to reside in the Unit,

in which case the Unit Owner must reapply for renewal of the hardship exception. Those owners who have complied with this subparagraph, have demonstrated that the inability to lease their Unit would result in undue hardship, and have obtained the Requisite written Board approval may lease their Units for such Duration as the Board reasonably determines is necessary to prevent undue hardship.

Any Owner who believes that he or she must lease his or her Unit to avoid undue hardship shall submit a written application to the Board setting forth the circumstances necessitating the leasing, a copy of the proposed lease, and such other information as the Board may reasonably require. Leasing in the case of undue hardship shall be permitted only upon the Board's written approval of the Owner's application. Any transaction which does not comply with this Paragraph shall be voidable at the Board's option.

2. Article 13.03 (F)(1) shall be modified and amended to read as follows:

(1) **Leasing Provisions:** Leasing which is authorized hereunder shall be governed by the following provisions:

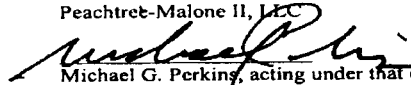
- (i) Notice: At least seven (7) days prior to entering Into the lease of a Unit, the owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. In the event a lease is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease in compliance with the Declaration and any rules and regulations adopted pursuant hereto.
- (ii) **General:** Units may be leased only in their entirety; no

fraction or portion may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The board may maintain and upon request, provide a form which is deemed acceptable. There shall be no subleasing of Units or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than one (1) year, except with written Board approval, which shall be unreasonably withheld in cases of undue hardship. Within ten (10) days after executing a lease agreement for the lease of a Unit, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Unit. The Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations. Nothing herein shall be constructed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

IN WITNESS WHEREOF, the undersigned hereto sets its hand and seal, the day and year first above written.

Dated this \_\_\_\_ day of December, 2002

Peachtree-Malone II, LLC




Michael G. Perkins, acting under that certain Power of Attorney from Larry K. Davis, Manager

Signed and sealed in the presence of:



Witness



Notary Public

