

STATE OF GEORGIA  
COUNTY OF FULTON

Reference: Deed Book 5309  
Page 525  
Deed Book 5316  
Page 110  
Deed Book 5416  
Page 339  
Deed Book 5525  
Page 351  
Deed Book 5558  
Page 521  
Deed Book 5567  
Page 154  
Deed Book 5644  
Page 309

GEORGIA, Fulton County, Clerk's Office Superior Court  
Filed & Recorded, ~~FEB 15 1983~~ at 9:18  
~~FEB 15 1983~~  
*Barbara J. Rice* CLERK

AMENDED AND RESTATED DECLARATION OF  
NAPIER REALTY & DEVELOPMENT CO.  
FOR THE TARA TOWNHOUSES

WHEREAS, Napier Realty & Development Co., a Georgia corporation, filed a Declaration of Napier Realty & Development Co., for Tara Townhouses, (hereinafter called the "Original Declaration"), dated and recorded on November 18, 1970, and recorded in Deed Book 5309, Page 525, et seq., Fulton County, Georgia Records; and

WHEREAS, such Declaration has been amended previously by amendments recorded in the Fulton County, Georgia Records, as follows:

	<u>Book</u>	<u>Page</u>	<u>Date Recorded</u>
Amendment 1	5316	110, <u>et seq.</u>	December 3, 1970;
Amendment 2	5416	339, <u>et seq.</u>	July 2, 1971;

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Amendment 3        5525        351, et seq.        January 31, 1972;  
 Amendment 4        5558        521, et seq.        April 5, 1972;  
 Amendment 5        5567        154, et seq.        April 21, 1972;  
 Amendment 6        5644        309, et seq.        August 30, 1972; and

WHEREAS, plats prepared by J. Ross & Associates are recorded in the Fulton County, Georgia, records as follows:

<u>Condominium Plat Book</u>	<u>Page</u>	<u>Date Recorded</u>
1	50	February 11, 1970;
1	51	January 26, 1971;
1	51	April 1, 1971;
1	52	July 2, 1971;
1	106	August 30, 1972;
1	107	August 30, 1972;
4	62	March 14, 1978; and

WHEREAS, floor plans of units prepared by Milton Pate & Associates, Inc., were recorded on November 18, 1970, in Condominium Cabinet File Number 1, Folder Number 7, Fulton County, Georgia, records; and

WHEREAS, the Tara Townhouses Condominium Association, Inc., (hereinafter called the "Association"), the successor to the Tara Town<sup>CONDOMINIUM</sup>houses Association, Inc., the association referenced in the Original Declaration, and the membership thereof, desire to amend the Original Declaration for the purpose of submitting the Condominium to the Georgia Condominium Act, Ga. Laws 1975, No. 463, Ga. Code Ann. Sections 85-1601e, et seq.; and

WHEREAS, the Original Declaration and the appurtenant By-Laws of the Tara Townhouses, (hereinafter called the "Original By-Laws"), may be amended by the written consent of at least ninety (90%) percent of the total Association vote; and

WHEREAS, unit owners to which at least ninety (90%) percent of the total votes in the Association appertain have, in writing, consented to the adoption of this Amended and Restated Declaration of Napier Realty & Development Co. for the Tara Townhouses, (hereinafter called the "Declaration"), which consents are attached hereto; and

WHEREAS, this amendment does not affect the rights of any mortgage holder under any existing mortgage, security deed, or related document; provided, however, that in the event a court of competent jurisdiction determines that any provision of this amendment affects the rights of mortgagees of units, then, such particular provision shall not be binding on the mortgagee so involved, unless said mortgagee consents to that particular provision; and if such consent is not forthcoming, then, the provision of the Original Declaration, effective prior to this amendment, shall control in respect to the affected mortgagee;

NOW, THEREFORE, the Original Declaration, and all Exhibits thereto, including the Original By-Laws, as amended, is stricken in its entirety, and the following is substituted therefor:

(iii)

DECLARATION OF CONDOMINIUM  
FOR  
TARA TOWNHOUSES CONDOMINIUM

HYATT & RHOADS, P.C.

Attorneys

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DECLARATION OF CONDOMINIUM  
FOR  
TARA TOWNHOUSES CONDOMINIUM

Pursuant to the Georgia Condominium Act, Ga. Laws 1975, No. 463, Ga. Code Ann. Sections 85-1601e, et seq., (hereinafter referred to as the "Act"), the name of the Condominium is hereby changed to Tara Townhouses Condominium and the Declaration is amended for the purpose of submitting the Condominium, a residential condominium, to the Act and for other purposes.

1.

Name

The name of the Condominium is Tara Townhouses Condominium, (hereinafter sometimes called "Tara Townhouses" or the "Condominium").

2.

Location

The Condominium is located in Land Lot 197 of the 17th District, Fulton County, Georgia, and is more particularly described on Exhibit "A" attached hereto, which Exhibit is incorporated herein by this reference.

3.

Units

The property described and submitted to the Act is divided into fifty (50) separate condominium units, each subject to the provisions of this Declaration. Each unit consists of a

dwelling and its appurtenant percentage of undivided interest in the common elements as shown on Exhibit "B" attached hereto, which Exhibit is incorporated herein by this reference. Exhibit "B" also includes a reference to the condominium unit number.

The units are depicted on the plats and plans, which plats and plans are incorporated herein by this reference. Each unit includes that part of the structure which lies within the following boundaries:

(a) Horizontal (Upper and Lower): There are no horizontal boundaries.

(b) Vertical (Perimetric): The vertical boundaries of any unit shall be the outermost surface of the exterior walls of any unit and the centerline of all party or shared walls, as shown on the plats and plans, extended to intersections with each other. Where there may be attached to any exterior wall a balcony, stairway, stoop, landing steps, projecting cornices and copings, or other portion of the building serving only a particular unit, the unit boundary shall include all of the aforementioned.

4.

#### Common Elements

The common elements include all parts of the Condominium property not located within the boundaries of a unit, and all foundations, bearing walls, utility lines, sewer lines,

water lines, pipes, wires, conduits, and duct work serving more than one unit, whether or not located within the boundaries of a unit. The percentage of ownership in the common elements is shown on Exhibit "B" attached hereto and by this reference incorporated herein.

5.

Limited Common Elements

The following items, and only the following items, are limited common elements, and no other portion of the Condominium shall be deemed limited common elements by virtue of the Act:

(a) the paved approach from the sidewalk to the unit;  
(b) the lawn space between the front of the unit and the sidewalk; and

(c) the patio at the rear of the unit; provided, however, the vertical boundaries applicable to any patio shall extend to the outermost surface of all walls bounding the patio, except that the boundaries shall only extend to the centerline of any party or shared walls.

6.

Use Restrictions

The units at the Condominium shall be and are restricted exclusively to residential use, and no business may be conducted upon the Condominium property. Other restrictions regarding use of units and the common elements may be adopted



by the Board of Directors in accordance with the terms hereof and as specified in the By-Laws of the Tara Townhouses Condominium Association, Inc., which By-Laws are attached hereto as Exhibit "C" and incorporated herein by this reference.

7.

Association Membership

All unit owners, by virtue of their ownership of a unit in the Condominium, are members of the Tara Townhouses Condominium Association, Inc., and shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to the Declaration and in accordance with the By-Laws. Subject to the provisions of the condominium instruments, such owners shall be entitled to one (1) vote for each unit in which they hold the interest required for membership, and each unit is allocated a vote weighted in accordance with a unit's percentage interest shown on Exhibit "B".

8.

Additional Rights and Restrictions

In addition to the restrictions above, the Association, in accordance with the By-Laws, shall have the right to make and to enforce reasonable rules and regulations governing the use of the Condominium, including both the units and the common elements. This right shall include the right to impose and assess fines and to suspend use privileges, as permitted by Section 13 of the Act, in accordance with the By-Laws.

The Association shall have the right to enter into units for emergency, security, and safety, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the homeowner. It is intended that this right of entry shall include (and this right of entry shall include) the right of the Association to enter a unit to cure any condition which may increase the possibility of a fire or other hazard in the Condominium in the event an owner fails or refuses to cure the condition upon request by the Board.

9.

Assessments

The Association shall have the power to impose assessments which shall be apportioned among the owners in accordance with the percentage interest in the common elements appurtenant to the unit, which assessments are the personal obligation of the owner against whom they are assessed and are a lien against the unit. The obligation and the lien for the assessment shall also include a late or delinquency charge in the amount of the greater of Ten (\$10.00) Dollars or ten (10%) percent of the amount of each assessment or installment not paid when due, interest on each assessment or installment not paid when due and

on any delinquency fee or late charge appertaining thereto from the date the charge was first due and payable at the rate of eight (8%) percent per annum, the costs of collection, including court costs, the expenses of sale, any expense required for the protection and preservation of the unit, reasonable attorney's fees actually incurred, and the fair rental value of the unit from the time of institution of suit until the sale at foreclosure.

10.

Amendments

This Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members of the Association holding two-thirds (2/3) of the total vote thereof. Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until a certified copy is filed in the Office of the Clerk of the Superior Court of Fulton County, Georgia.

11.

Preparer

This Declaration was prepared by Richard A. Bacon of Hyatt & Rhoads, P.C., 2200 Peachtree Center Harris Tower, 233 Peachtree Street, N.E., Atlanta, Georgia, 30303.

12.

Notice of Sales or Leases

An owner intending to sell or lease his unit shall give notice in writing to the Board of Directors of such intention, stating the name and address of the intended purchaser or lessee, the terms of the proposed transaction, and such other information as the Board may reasonably require, ("Owner's Notice"). The Board shall then promptly mail or cause the Owner's Notice to be delivered to all owners.

Any sale or lease which does not comply with the provisions of this Section shall be voidable at the option of the Board of Directors.

Any owner or prospective purchaser or lessee of a unit shall, upon request to the Board, be entitled to a statement in recordable form certifying that the Owner's Notice has been duly given as required by this Section.

13.

Leasing of Units

Units may be rented only in their entirety; no fraction or portion may be rented. No transient tenants may be accommodated in a unit. All leases shall be in a form approved by the Association. All leases and lessees are subject to the provisions of the condominium instruments and rules and regulations adopted pursuant thereto. All rentals must be for a term of no less than one (1) year. The unit owner must make available to

the tenant copies of the Declaration, By-Laws, and rules and regulations.

14.

Mortgagees' Rights

Unless at least two-thirds (2/3) of the first mortgagees or unit owners give their consent, the Association or the membership shall not:

(i) by act or omission seek to abandon or terminate the Condominium project;

(ii) change the pro rata interest or obligations of any individual unit for the purpose of (1) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (2) determining the pro rata share of ownership of each unit in the common elements;

(iii) partition or subdivide any unit;

(iv) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the common elements (the granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the Condominium project or architectural changes, as authorized herein, shall not be deemed a transfer within the meaning of this clause); or

(v) use hazard insurance proceeds for losses to any Condominium property (whether to units or to common elements) for other than the repair, replacement, or reconstruction of such Condominium property.

The provisions of this section shall not be construed to reduce the percentage vote that must be obtained from mortgagees or unit owners where a larger percentage vote is otherwise required by the Act or the condominium instruments for any of the actions contained in this section.

IN WITNESS WHEREOF, the undersigned officers of the Tara Townhouses Condominium Association, Inc., hereby certify that the above amendment to the Declaration and the following amendment to the By-Laws were duly adopted by the Association and its membership.

This 11 day of February, 1983.

TARA TOWNHOUSES CONDOMINIUM ASSOCIATION, INC.

By: Bois B. King  
President

Attest: R. E. Goddard  
Secretary

Signed, sealed, and delivered this 11 day of February, 1983, in the presence of

Vanessa J. Brown  
WITNESS

Marie J. Astin  
NOTARY PUBLIC

Notary Public, Georgia, No. 11111  
My Commission Expires March 22, 1983

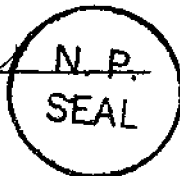


EXHIBIT "A"

Property Description

ALL THAT TRACT or parcel of land lying and being in Land Lot 197 of the 17th District of Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin at the point of intersection of the northwesterly side of Margaret Mitchell Drive and the southwesterly side of Northwest Expressway (I-75); running thence South  $45^{\circ} 37'$  West along the northwesterly side of Margaret Mitchell Drive 168.8 feet; thence continuing South  $47^{\circ} 31'$  West along the northwesterly side of Margaret Mitchell Drive 51.2 feet to an iron pin, which point is 142.2 feet northeasterly, as measured along the northwesterly side of Margaret Mitchell Drive from the corner formed by the intersection of the Northwesterly side of Margaret Mitchell Drive and the northeasterly side of Clarendale Road (unimproved); thence North  $46^{\circ} 42'$  West 257.8 feet to an iron pin; thence continuing North  $46^{\circ} 42'$  West 49.9 feet to an iron pin; running thence North  $44^{\circ} 54'$  East 52.4 feet to an iron pin; thence North  $46^{\circ} 27'$  West 350.0 feet to an iron pin; thence South  $54^{\circ} 01'$  West 93.8 feet to an iron pin; thence North  $47^{\circ} 15'$  West 169.0 feet to an iron pin; running thence North  $42^{\circ} 45'$  East 47.7 feet to an iron pin; thence North  $00^{\circ} 23' 30''$  East 88.3 feet to an iron pin; thence South  $89^{\circ} 21'$  East 663.8 feet to an iron pin on the southwesterly side of the above-mentioned Northwest Expressway; thence South  $07^{\circ} 33' 30''$  East along the southwesterly side of the Northwest Expressway 89.1 feet to an iron pin; thence continuing South  $07^{\circ} 30'$  East along the southwesterly side of said Expressway 295.0 feet to an iron pin; thence continuing South  $21^{\circ} 26'$  East along the southwesterly side of said Expressway 141.1 feet to the iron pin at the POINT OF BEGINNING.

EXHIBIT "B"

Percentage of Undivided Interest in Common Elements, Voting  
Percentage, and Percentage Applicable to Common Expenses

<u>Unit Number</u>	<u>Percentage</u>
1	1.8 ✓
2	1.8 ✓
3	1.8 ✓
4	1.8 ✓
5	1.8 ✓
6	1.8 ✓
7	1.8 ✓
8	1.8 ✓
9	1.8
10	1.8 ✓
11	1.8 ✓
12	1.8 ✓
13	1.8 ✓
14	1.8 ✓
15	2.1 ✓
16	2.1 ✓
17	2.1 ✓
18	2.1 ✓
19	2.1 ✓
20	1.8 ✓
21	1.8 ✓
22	1.8 ✓
23	1.8 ✓
24	1.8 ✓
25	2.4 ✓
26	1.9 ✓
27	1.8 ✓
28	1.8 ✓
29	1.8 ✓
30	2.4 ✓
31	1.8 ✓
32	1.8 ✓
33	2.4 ✓
34	2.1 ✓
35	2.1 ✓
36	2.1 ✓
37	2.1 ✓
38	2.4 ✓
39	2.4 ✓
40	2.4 ✓
41	1.8
42	1.8
43	1.8
44	1.8 ✓
45	2.4
46	2.4 ✓
47	2.4 ✓
48	2.4 ✓
49	2.4 ✓
50	2.4 ✓