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06-CA-1401

MARYANNE MORSE, CLERK OF CIRCUIT COURT SEMINOLE COUNTY, CFN 2007128067 BK 06808 Pgs 1597 - 1603 (7 pgs) REC'D 08/04/2007 04:22:59 PM REC FEES \$1.00 REC'D BY G Hatford

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BY SEMINOLE CO. CLERK
MARYANNE MORSE
CLERK CIRCUIT CO.

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT is entered into by and between SAUSALITO CONDOMINIUM ASSOCIATION, INC. ("Condominium Association") and SAUSALITO SHORES HOMEOWNERS ASSOCIATION, INC. ("Homeowners Association") this 8 day of July, 2007.

WHEREAS, the Condominium Association is a corporation not-for-profit organized under the laws of the State of Florida and is formed for the operation of a residential condominium known as the Sausalito Condominium located in Seminole County, Florida and which is described as follows: See Exhibit "A" and

WHEREAS, the Homeowners Association is a corporation not-for-profit organized under the laws of the State of Florida and is the owner of that certain property located in Seminole County, Florida which Real Property is described as follows:

"From the NE corner of the W 3/4 of the N 1/2 of the SE 1/4 of Section 21, Township 21 South, Range 30 East, run S. 0°01'09" E. along the East line of said W 3/4 1184.05 feet to the Point of Beginning; thence run S. 89°58'51" W. 173.47 feet; thence run S. 0°01'09" E. 72.16 feet; thence run S. 89°58'51" W. 110.00 feet; thence run S. 0°01'09" E. 421.99 feet; thence run S. 12°44'51" E. 107 feet more or less to the North shore of Lake Howell; thence run Easterly along the shore of the lake 259 feet more or less to the East line of said W 3/4; thence run S. 0°01'09" W. 552 feet more or less along said East line to the Point of Beginning; containing 3.50 acres, more or less."

As set forth in that certain Recreation Area described and show on the Plat of Sausalito Section Two according to the Plat thereof as recorded in Plat Book 20, Page 45, Public Records of Seminole County, Florida hereinafter referred to as the Recreational Land; and

WHEREAS, the Recreational Land became the property of the Homeowners Association by virtue of a Deed from Greater Construction Corp. dated August 31, 1982, and as recorded at Book 1411 at Pages 1906 and 1907 of the Public Records of Seminole County, Florida; and

WHEREAS, the Recreational land was the subject to that certain Agreement dated February 15, 1978 as entered into between the Greater Construction Corp. and Sausalito Condominium Association, Inc. regarding the use and operation of said Recreational Land, and that by entering into this Settlement Agreement, the Parties do hereby revoke, terminate and intend that this Settlement Agreement does otherwise supersede the "Agreement" dated February 15, 1978; and

NOT A VALID RECORD UNTIL THE RECORD IS FILED AND THE FEE IS PAID TO THE CLERK OF THE CIRCUIT COURT OF SEMINOLE COUNTY, FLORIDA

WHEREAS, the Condominium Association and Homeowners Association and their respective members, lessees and guests had certain rights of access and use of said Recreational Land pursuant to the "Agreement" of February 15, 1978; and

WHEREAS, a dispute or disputes have arisen between the Condominium Association and Homeowners Association with regard to access to the Recreational Land including, but not limited to, the access to said Recreational Land including, but not limited to, the tennis courts, basketball courts, playground areas, gazebo, boat facilities, boat dock and boat ramp, which shall hereafter be known as Capital Items; and

WHEREAS, the Condominium Association has filed an action in the Circuit Court of Seminole County, Florida in the case of Sausalito Condominium Association, Inc. v. Sausalito Shores Homeowners Association, Inc., Case No. 06-CA-1401-12-G

WHEREAS, the Condominium Association, through its Board of Directors, and pursuant to Article IV of the "Articles of Incorporation of Sausalito Condominium Association, Inc." and paragraph 4 of the "By-Laws of Sausalito Condominium Association, Inc." has the authority to enter into this Settlement Agreement; and

WHEREAS, the parties did submit to and participate in a mediation conference on January 25, 2007; and

WHEREAS, the Condominium Association and Homeowners Association (collectively referred to as "the Parties") do desire to settle their disputes and the above-referenced cause of action as well as clarifying the respective rights and obligations between the parties hereto regarding the use and access to the Recreational Land; and

WHEREAS, the parties have entered into this Settlement Agreement as a means of resolving their disputes and of resolving the above-referenced cause of action; and

NOW THEREFORE, in consideration of the mutual promises of the Parties and other good and valuable consideration the amount and adequacy of which is hereby acknowledged, the Parties do stipulate and agree as follows:

1. All of the above-recitals are true and correct and each of the above recitals is an integral part of this Settlement Agreement.
2. The Condominium Association shall pay, on July 1, 2007 and on March 1 thereafter, on an annual basis, the sum of One Thousand Two Hundred Dollars and Zero Cents (\$1,200.00) to the Homeowners Association or its designated agent or representative. The amount payable to the Homeowners Association by the Condominium Association shall increase by three percent (3%) on March 1 each year.

3. The Homeowners Association shall continue to be responsible for directing, managing and maintaining the dock, boat ramp, paved roadways and the entry gates and gate locks to the Recreational Land in the normal course as said amenities were constructed and the Homeowners Association shall have a continuing duty to reasonably maintain the Recreational Land as aforesaid. The Homeowners Association shall not have a duty to replace or rebuild capital items on the Recreational Land which have been destroyed or damaged beyond repair, except for the boat ramp and boat dock. Should a catastrophic loss occur damaging the boat dock and/or the boat ramp, the parties hereto agree that the both parties hereto shall contribute an amount equal to the annual sum outlined in paragraph 2 above toward expenses to rebuild/restore the dock and/or boat ramp to its previous condition. The boat ramp may still be used during this restoration time, provided such is safe for use and at the users risk. The parties contribution for restoration shall be held in a separate account until funds are sufficient to replace the dock. The Homeowners Association shall be permitted to maintain and operate a storage lot upon the Recreational Land for the storage of recreational vehicles, trailers and related items. The members of the Condominium Association shall be permitted to park or store recreational vehicles, trailers or other items within the recreational lot facility upon payment of the same fee or charge imposed by the Homeowners Association for all resident users of the recreational vehicle facility
4. The members of the Condominium Association and their authorized tenants shall have the right to use the clubhouse upon the pre-payment of such fees or deposit and under such terms established by the Homeowners Association for the use of the clubhouse and related facilities that are otherwise equal to the fees charged to the members of the Homeowners Association.
5. The Condominium Association and its members, tenants, guests and invitees shall abide by the Homeowners Association's Rules and Regulations for the use of the clubhouse and other recreational facilities. The rules and regulations which the parties hereto agree to be bound are attached hereto as Exhibit "2" (Boating Club Membership Rules) and Exhibit "3" (Storage Lot Membership Rules). The Condominium Association shall be advised, in writing of any new or amended rules or regulations. The Homeowners Association shall provide such keys, access codes or other methods of access to members of the Condominium Association for access to the main entry gate, to the Recreational Land and to the boat ramp, and the Condominium Association or its members shall pay a deposit equal to that paid by the members of the Homeowners Association for any keys, locks or access codes.
6. The Condominium Association members and lessees shall be responsible for securing the keys, access codes or other methods of access to the Recreational Land. With the annual maintenance payment outlined in paragraph 2 above, the Condominium Association shall be provided with a maximum of 10 keys free of

charge. A \$25.00 refundable deposit per key is to be paid to Homeowners Association prior to receipt of any key. Should more than 10 keys be needed, the Condominium Association member shall pay for all additional keys. The price shall be \$10.00 for the keys and \$25.00 for a refundable deposit. The maximum number of keys, access codes or other methods of access to the Recreational Land shall not exceed fifty-one (51) at any one (1) time. However, the members of the Condominium Association and its tenants, guests and invitees shall pay no other fee other than as set forth herein for such access and maintenance of the above-referenced facilities. If in the future the cost of keys and deposit change, this shall be applicable to both the Sausalito Homeowners Association and the Sausalito Condominium Association.

7. The Parties do agree to the recording of this Settlement Agreement in the Public Records of Seminole County, Florida and the Parties do further agree that this Settlement Agreement and the terms contained herein does supersede, and, that this Settlement Agreement does otherwise revoke that certain "Agreement" dated February 15, 1978 as recorded in the Public Records of Seminole County, Florida and same shall be of no further force and effect between the parties hereto, and the parties agree to enter into a "Revocation, Termination and Substitution" of said Agreement of February 15, 1978 and the Condominium Association shall use their best efforts to obtain a "Joinder and Consent" of Greater Homes, Inc. formerly known as Greater Construction Corp. to the "Revocation, Termination and Substitution" of the February 15, 1978 Agreement.
8. The Parties do further stipulate and agree to execute and file with the Circuit Court of Seminole County, Florida Joint Stipulation of Dismissal and the parties do further agree that they shall bear their own attorney's fees and court costs in the prosecution and defense in the case of Sausalito Condominium Association, Inc. v. Sausalito Shores Homeowners Association, Inc., et al., Case No. 06-CA-1401-12-G.
9. Should either party default or breach any of the terms or conditions of this Settlement Agreement, including a default in the payment obligations of Paragraph 2 of this Agreement, the Parties to hereby covenant and agree that either party shall be entitled to enforce this Settlement Agreement in a Court of competent jurisdiction in Seminole County, Florida. Prior to instituting such action, the non-defaulting/ non-breaching party will provide notice, as provided herein, to the defaulting party. The Defaulting party shall have ten (10) days from receipt to cure any default of the terms of this Settlement Agreement contained in the notice. The parties do hereby agree that in any action filed on a default of or to enforce the terms of this Settlement Agreement, as a prerequisite, the parties shall be required to enter into and complete a mediation conference as provided under the Florida Rules of Civil Procedure. Thereafter, either party shall be entitled to enforce through Summary Procedure,

under Chapter 51, Florida Statutes, or as amended, any such default/breach, including any monetary default/breach.

10. This Settlement Agreement shall be construed liberally for the purpose of resolving all disputes between the parties arising out of the matters described herein and the parties shall act in good faith regarding the obligations contained herein.

11. This Settlement Agreement constitutes the entire and sole understanding of the Parties with respect to the matters contained herein, notwithstanding any prior oral or written statements, instructions, agreements, representations, or other communications. No modification or amendment of this Settlement Agreement shall be effective unless done in writing and signed by the parties hereto. This Settlement Agreement shall be interpreted in accordance with the laws of the State of Florida. Venue of any action brought to interpret or enforce the terms of this Settlement Agreement shall be exclusively in the Circuit Court of Seminole County, Florida.

12. The Parties to this Settlement Agreement hereby represent that it is their sincere intention to resolve the issues related to the Dispute, and that they will each fully cooperate in good faith in executing their respective duties under this Settlement Agreement. This cooperation shall include, but is not limited to, faithfully observing any and all other obligations arising from this Settlement Agreement in a manner demonstrating good faith by the Parties.

13. By entering into this Settlement Agreement, the Parties fully intend to end all litigation, disputes, and/or potential claims between them or any third parties relating to or having any connection with the Dispute. The Parties shall refrain from any actions which directly or indirectly weaken or undermine this Settlement Agreement, and shall fully cooperate with one another in good faith in the event any action is brought by a third party concerning the subject matter of this Settlement Agreement. Notwithstanding this cooperation clause, each party to this Settlement Agreement shall be responsible for their own attorney fees and costs associated with such third party suit.

14. Whenever possible, each provision of this Settlement Agreement shall be interpreted in such a manner as to be valid under applicable law(s). If any provision of this Settlement Agreement shall be determined to be invalid or prohibited for any reason, such provision shall be ineffective only to the extent of such prohibition or invalidation, and the remainder of any such provisions of this Settlement Agreement shall remain valid and enforceable.

15. This Settlement Agreement shall inure to and shall be binding upon the successors and assigns of the parties hereto.

16. Any notice called for under this Settlement Agreement shall be effective as to the Condominium Association if provided via certified mail addressed to the President of Sausalito Condominium Association, 636 Sausalito Blvd, Casselberry, Florida 32707-5736 and to the President of Sausalito Shores Homeowners Association, P.O. Box 181685, Casselberry, Florida 32718. Both parties shall provide the other with updated notice information as is necessary. A 10 business day window to cure any default shall begin the day after the certified letter is received. If the default is not cured within 10 days, mediation shall occur within 60 days thereafter. A court of competent jurisdiction shall have ability to enforce this agreement and its terms, including but not limited to mediation should a party fail to mediate after demand.
17. The Parties hereby stipulate and agree that this document shall in all respects be considered drafted by all of the Parties to this Agreement. Should a disagreement arise as to the terms of this Settlement Agreement, none of the provisions contained herein shall be construed more strictly against either party as the drafter.
18. This Settlement Agreement shall survive to the extent necessary to give force and effect to its provisions.

WHEREFORE, the Parties enter into this Settlement Agreement as of the date set forth above.

SAUSALITO CONDOMINIUM
ASSOCIATION, INC.

SAUSALITO SHORES HOMEOWNERS
ASSOCIATION, INC.

By: Rochelle A. Swindle By: David Manor

Its: President Its: President

Print: Rochelle A. Swindle Print: David Manor

STATE OF FLORIDA

COUNTY OF ORANGE

The foregoing Settlement Agreement was acknowledged before me this 3
day of July 2007 by
as of

SAUSALITO CONDOMINIUM ASSOCIATION, INC. and who is (personally known
to me OR (has provided as identification.)



YANELI STEVENS
 MY COMMISSION # DD 288352
 EXPIRES: February 8, 2008
 Bonded Thru Budget Notary Services

Notary Public

Seal

STATE OF FLORIDA
 COUNTY OF ORANGE

The foregoing Settlement Agreement was acknowledged before me this 3
 day of July, 2007 by _____ as
 of SAUSALITO HOMEOWNERS ASSOCIATION, INC. and who is
) personally known to me OR () has provided _____ as
 identification.



YANELI STEVENS
 MY COMMISSION # DD 288352
 EXPIRES: February 8, 2008
 Bonded Thru Budget Notary Services

Yaneli Stevens
 Notary Public

Seal

This is not a certified copy