



DAVID R ELLSPERMANN CLERK & COMPTROLLER MARION CO
 DATE: 02/08/2019 03:20:06 PM
 FILE #: 2019013524 OR BK 6912 PGS 262-263
 REC FEES: \$18.50 INDEX FEES: \$0.00
 DDS: \$0 MDS: \$0 INT: \$0

Rec. _____ This instrument was prepared by.
 Doc. _____ Record and Return to:
 Bradford J. Tropello, Esquire
 Post Office Box 1869
 Ocala, Florida 34478
 Telephone: (352) 732-7218

NOTICE OF PRESERVATION

Notice of MAJESTIC OAKS HOMEOWNERS ASSOCIATION OF OCALA, INC. under s. 720.3032, Florida Statutes, and notice to preserve and protect covenants and restrictions from extinguishment under the Marketable Record Title Act, chapter 712, Florida Statutes.

Instructions to recorder: Please index both the legal name of the association and the names shown in item 3.

1. Legal name of association: MAJESTIC OAKS HOMEOWNERS ASSOCIATION OF OCALA, INC.
2. Mailing and physical addresses of association: P.O. BOX 771071, OCALA, FL 34477 (mailing address) and 5269 SW 89th Street, OCALA, FL 34476 (physical address).
3. Names of the subdivision plats, or, if none, common name of community:
 MAJESTIC OAKS; MAJESTIC OAKS FIRST ADDITION; MAJESTIC OAKS SECOND ADDITION; MAJESTIC OAKS THIRD ADDITION; AND MAJESTIC OAKS FOURTH ADDITION PHASE ONE.
4. Name, address, and telephone number for management company, if any: N/A.
5. This notice DOES constitute a notice to preserve and protect covenants or restrictions from extinguishment under the Marketable Record Title Act.
6. The following covenants or restrictions affecting the community which the association desires to be preserved from extinguishment:

Protective Covenants of Majestic Oaks Subdivision recorded in OR Book 1591, Page 1259, Public Records of Marion County, Florida, as amended by that certain Protective Covenants of Majestic Oaks Subdivision recorded in OR Book 1606, at Page 1870, Public Records of Marion County, Florida, as amended by the Amendment to the Protective Covenants of Majestic Oaks Subdivision recorded in OR Book 2069, at Page 453, Public Records of Marion County, Florida, as amended by the Amended and Restated Protective Covenants of Majestic Oaks Subdivision recorded in OR Book 2337, at Page 720, Public Records of Marion County, Florida, as amended by the Amendment to Amended and Restated Protective Covenants of Majestic Oaks Subdivision recorded in OR Book 3038, at Page 965, Public Records of Marion County, Florida, as amended by the Amendment to Amended and Restated Protective Covenants of Majestic Oaks Subdivision recorded in OR Book 3264, at Page 406, Public Records of Marion County, Florida, as amended by the Declaration of Covenants for Majestic Oaks recorded in OR Book 3838, at Page 1594, Public Records of Marion County, Florida, as amended by the Majestic Oaks Homeowner Association of Ocala Florida, Inc. Declaration of Covenants Amendment recorded in OR Book 6149, at Page 270, Public Records of Marion County, Florida, as amended by the Declaration of Covenants for Majestic Oaks recorded in OR Book 6416, at Page 947, Public Records of Marion County, Florida.

7. The legal description of the community affected by the listed covenants or restrictions is:

See Marion County, Florida PLATS: MAJESTIC OAKS, PLAT BOOK 1, PAGES 79-80; MAJESTIC OAKS FIRST ADDITION, PLAT BOOK 1, PAGES 94-95; MAJESTIC OAKS SECOND ADDITION, PLAT BOOK 2, PAGES 27-29; MAJESTIC OAKS THIRD ADDITION, PLAT BOOK 3, PAGES 49-50; AND MAJESTIC OAKS FOURTH ADDITION PHASE ONE, PLAT BOOK 3, PAGES 77-80.

This notice is filed on behalf of MAJESTIC OAKS HOMEOWNERS ASSOCIATION OF OCALA, INC. as of February 7th, 2019.

X [Signature]

Witness Name: Brad Tropello

X [Signature]

Witness Name: Henry Aleman

MAJESTIC OAKS HOMEOWNERS ASSOCIATION OF OCALA, INC.

X [Signature]

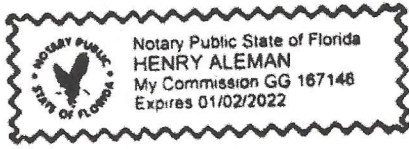
By: Robert H. Watson, Jr., President

STATE OF FLORIDA
COUNTY OF MARION)

The foregoing instrument was acknowledged before me this 7 day of February, 2019, Robert H. Watson, Jr., as President of MAJESTIC OAKS HOMEOWNERS ASSOCIATION OF OCALA, INC., who is personally known to me or who has produced Florida license as identification.

[Signature]
(Print Name)

Notary Public, State of _____
My Commission Expires:



This instrument was prepared by,
Record and Return to:
Bradford J. Tropello, Esquire
Post Office Box 1869
Ocala, Florida 34478
Telephone: (352) 732-7218

RE: Majestic Oaks Homeowners' Association, Inc. - Preservation of Governing Documents

From : Bradford tropello <btropello@bmaklaw.com> Mon, Jan 21, 2019 07:47 AM
Subject : RE: Majestic Oaks Homeowners' Association, Inc. - Preservation of Governing Documents 1 attachment
To : Eaglewells <eaglewells@aol.com>
Cc : bobwatson@centurylink.net, Louie <louiebartolomeol@gmail.com>

Board c/o Bob,
Please see the attached Notice of Preservation pursuant to the recent statutory updates passed last year. You are welcome to come in and sign/witness/notarize. It then needs to be recorded and the recorded document is then sent to all owners in the next mass mailing.
thanks

Bradford J. Tropello, Esquire
Blanchard, Merriam, Adel & Kirkland, P.A.
Attorneys at Law
(352) 732-7218
4 SE Broadway Street
Ocala, FL 34471

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED MAY BE USED FOR THAT PURPOSE. THIS IS A COMMUNICATION FROM A DEBT COLLECTOR.

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From: Bradford tropello
Sent: Tuesday, July 24, 2018 8:45 AM
To: 'Eaglewells' <eaglewells@aol.com>
Cc: 'bobwatson@centurylink.net' <bobwatson@centurylink.net>
Subject: RE: Majestic Oaks Homeowners' Association, Inc. - Preservation of Governing Documents

Bob/Ron,

Per our meeting, attached are the first two recordings of Majestic Oaks' Declaration. In my prior email I thought the first recording was 10/2/1989, but that

appears to be incorrect. There was another Declaration recorded 7/21/1989, so that is the date the HOA must focus on. I have not compared the 2 recordings in detail so I am not sure why there are 2 different recording dates, but to be safe the HOA must go with the first date.

Therefore, any preservation of the HOA's governing documents by the board must be completed by 7/20/2019, but I suggest the preservation is done well before that deadline. After the deadline, the Marketable Recording Title Act (MRTA) may extinguish the HOA's governing documents since 30 years elapsed from original recording. Per Florida Statutes, Chapter 712 (Florida Statutes, Sections 720.403-407 is for revitalization if the deadline is missed), the HOA may preserve the governing documents for another 30 years if the process is performed prior to the deadline above. The HOA must follow the procedures in Chapter 712 which is copied below and 2/3s of the board must approve the Preservation.

After the BOD has had a chance to review please call or come in to discuss. Given the size of the community, just the costs could range from ~\$500 to \$3,000 as a major costs is the notice to owners by publication or certified mail. Fees can range as well but the whole preservation should be well under \$10k.

thanks

CHAPTER 712

MARKETABLE RECORD TITLES TO REAL PROPERTY

- 712.001 Short title.
- 712.01 Definitions.
- 712.02 Marketable record title; suspension of applicability.
- 712.03 Exceptions to marketability.
- 712.04 Interests extinguished by marketable record title.
- 712.05 Effect of filing notice.
- 712.06 Contents of notice; recording and indexing.
- 712.07 Limitations of actions and recording acts.
- 712.08 Filing false claim.
- 712.09 Extension of 30-year period.
- 712.095 Notice required by July 1, 1983.
- 712.10 Law to be liberally construed.
- 712.11 Covenant revitalization.
- 712.12 Covenant or restriction revitalization by parcel owners not subject to a homeowners' association.

712.001 Short title.—This chapter may be cited as the “Marketable Record Title Act.”

History.—s. 1, ch. 2018-55.

712.01 Definitions.—As used in this chapter, the term:

(1) "Community covenant or restriction" means any agreement or limitation contained in a document recorded in the public records of the county in which a parcel is located which:

(a) Subjects the parcel to any use restriction that may be enforced by a property owners' association; or

(b) Authorizes a property owners' association to impose a charge or assessment against the parcel or the parcel owner.

(2) "Covenant or restriction" means any agreement or limitation contained in a document recorded in the public records of the county in which a parcel is located which subjects the parcel to any use or other restriction or obligation.

(3) "Parcel" means any real property that is subject to any covenant or restriction of a property owners' association.

(4) "Person" includes the singular or plural, natural or corporate, private or governmental, including the state and any political subdivision or agency thereof as the context for the use thereof requires or denotes and including any property owners' association.

(5) "Property owners' association" means a homeowners' association as defined in s. 720.301, a corporation or other entity responsible for the operation of property in which the voting membership is made up of the owners of the property or their agents, or a combination thereof, and in which membership is a mandatory condition of property ownership, or an association of parcel owners which is authorized to enforce a community covenant or restriction that is imposed on the parcels.

(6) "Root of title" means any title transaction purporting to create or transfer the estate claimed by any person which is the last title transaction to have been recorded at least 30 years before the time when marketability is being determined. The effective date of the root of title is the date on which it was recorded.

(7) "Title transaction" means any recorded instrument or court proceeding that affects title to any estate or interest in land and that describes the land sufficiently to identify its location and boundaries.

History.—s. 1, ch. 63-133; s. 11, ch. 65-420; s. 1, ch. 81-242; s. 1, ch. 97-202; s. 56, ch. 2000-258; s. 16, ch. 2000-317; s. 2, ch. 2018-55.

712.02 Marketable record title; suspension of applicability.—Any person having the legal capacity to own land in this state, who, alone or together with her or his predecessors in title, has been vested with any estate in land of record for 30 years or more, shall have a marketable record title to such estate in said land, which shall be free and clear of all claims except the matters set forth as exceptions to marketability in s. 712.03. A person shall have a marketable record title when the public records disclosed a record title transaction affecting the title to the land which has been of record for not less than 30 years purporting to create such estate either in:

(1) The person claiming such estate; or

(2) Some other person from whom, by one or more title transactions, such estate has passed to the person claiming such estate, with nothing appearing of record, in either case, purporting to divest such claimant of the estate claimed.

History.—s. 2, ch. 63-133; s. 1, ch. 85-83; s. 63, ch. 87-226; s. 797, ch. 97-102.

712.03 Exceptions to marketability.—Such marketable record title shall not affect or extinguish the following rights:

(1) Estates or interests, easements and use restrictions disclosed by and defects inherent in the muniments of title on which said estate is based beginning with the root of title; provided, however, that a general reference in any of such muniments to easements, use restrictions or other interests created prior to the root of title shall not be sufficient to preserve them unless specific identification by reference to book and page of record or by name of recorded plat be made therein to a recorded title transaction which imposed, transferred or continued such easement, use restrictions or other interests; subject, however, to the provisions of subsection (5).

(2) Estates, interests, claims, or charges, or any covenant or restriction, preserved by the filing of a proper notice in accordance with the provisions hereof.

(3) Rights of any person in possession of the lands, so long as such person is in such possession.

(4) Estates, interests, claims, or charges arising out of a title transaction which has been recorded subsequent to the effective date of the root of title.

(5) Recorded or unrecorded easements or rights, interest or servitude in the nature of easements, rights-of-way and terminal facilities, including those of a public utility or of a governmental agency, so long as the same are used and the use of any part thereof shall except from the operation hereof the right to the entire use thereof. No notice need be filed in order to preserve the lien of any mortgage or deed of trust or any supplement thereto encumbering any such recorded or unrecorded easements, or rights, interest, or servitude in the nature of easements, rights-of-way, and terminal facilities. However, nothing herein shall be construed as preserving to the mortgagee or grantee of any such mortgage or deed of trust or any supplement thereto any greater rights than the rights of the mortgagor or grantor.

(6) Rights of any person in whose name the land is assessed on the county tax rolls for such period of time as the land is so assessed and which rights are preserved for a period of 3 years after the land is last assessed in such person's name.

(7) State title to lands beneath navigable waters acquired by virtue of sovereignty.

(8) A restriction or covenant recorded pursuant to chapter 376 or chapter 403.

(9) Any right, title, or interest held by the Board of Trustees of the Internal Improvement Trust Fund, any water management district created under chapter 373, or the United States.

History.—s. 3, ch. 63-133; s. 12, ch. 65-420; s. 1, ch. 73-218; s. 1, ch. 78-288; s. 2, ch. 97-202; s. 17, ch. 2000-317; s. 1, ch. 2010-104.

712.04 Interests extinguished by marketable record title.—Subject to s. 712.03, a marketable record title is free and clear of all estates, interests, claims, or charges, the existence of which depends upon any act, title transaction, event, or omission that occurred before the effective date of the root of title. Except as provided in s. 712.03, all such estates, interests, claims, or charges, however denominated, whether they are or appear to be held or asserted by a person sui juris or under a disability, whether such person is within or without the state, natural or corporate, or private or governmental, are declared to be null and void. However, this chapter does not affect any right, title, or interest of the United States, Florida, or any of its officers, boards, commissions, or other agencies reserved in the patent or deed by which the United States, Florida, or any of its agencies parted with title.

History.—s. 4, ch. 63-133; s. 1, ch. 65-280; s. 2, ch. 2010-104.

712.05 Effect of filing notice.—

(1) A person claiming an interest in land or other right subject to extinguishment under this chapter may preserve and protect such interest or right from extinguishment by the operation of this chapter by filing for record, at any time during the 30-year period immediately following the effective date of the root of title, a written notice in accordance with s. 712.06.

(2) A property owners' association may preserve and protect a community covenant or restriction from extinguishment by the operation of this chapter by filing for record, at any time during the 30-year period immediately following the effective date of the root of title:

(a) A written notice in accordance with s. 712.06; or

(b) A summary notice in substantial form and content as required under s. 720.3032(2); or an amendment to a community covenant or restriction that is indexed under the legal name of the property owners' association and references the recording information of the covenant or restriction to be preserved. Failure of a summary notice or amendment to be indexed to the current owners of the affected property does not affect the validity of the notice or vitiate the effect of the filing of such notice.

(3) A notice under subsection (1) or subsection (2) preserves an interest in land or other right subject to extinguishment under this chapter, or a covenant or restriction or portion of such covenant or restriction, for not less than 30 years after filing the notice unless the notice is filed again as required in this chapter. A person's disability or lack of knowledge of any kind may not delay the commencement of or suspend the running of the 30-year period. Such notice may be filed for record by the claimant or by any other person acting on behalf of a claimant who is:

(a) Under a disability;

(b) Unable to assert a claim on his or her behalf; or

(c) One of a class, but whose identity cannot be established or is uncertain at the time of filing such notice of claim for record.

The property owners' association or clerk of the circuit court is not required to provide additional notice pursuant to s. 712.06(3) for a notice filed under subsection (2). The preceding sentence is intended to clarify existing law.

(4) It is not necessary for the owner of the marketable record title, as described in s. 712.02, to file a notice to protect his or her marketable record title.

History.—s. 5, ch. 63-133; s. 798, ch. 97-102; s. 3, ch. 97-202; s. 1, ch. 2003-79; s. 7, ch. 2014-133; s. 3, ch. 2018-55.

712.06 Contents of notice; recording and indexing.—

(1) To be effective, the notice referred to in s. 712.05, other than the summary notice and the amendment referred to in s. 712.05(2)(b), must contain:

(a) The name or description and mailing address of the claimant or the property owners' association desiring to preserve any covenant or restriction.

(b) The name and mailing address of an owner, or the name and mailing address of the person in whose name the property is assessed on the last completed tax assessment roll of the county at the time of filing, who, for purpose of such notice, shall be deemed to be an owner; however, if a property owners' association is filing the notice, the requirements of this paragraph may be satisfied by attaching to and recording with the notice an affidavit executed by the appropriate member of the board of directors of the property owners' association affirming that the board of directors of the property owners' association caused a statement in substantially the following form to be mailed or hand delivered to the members of that property owners' association:

STATEMENT OF MARKETABLE TITLE ACTION

The [name of property owners' association] (the "Association") has taken action to ensure that the [name of declaration, covenant, or restriction], recorded in Official Records Book , Page , of the public records of County, Florida, as may be amended from time to time, currently burdening the property of each and every member of the Association, retains its status with regard to the affected real property. To this end, the Association shall cause the notice required by chapter 712, Florida Statutes, to be recorded in the public records of County, Florida. Copies of this notice and its attachments are available through the Association pursuant to the Association's governing documents regarding official records of the Association.

(c) A full and complete description of all land affected by such notice, which description shall be set forth in particular terms and not by general reference, but if said claim is founded upon a recorded instrument or a covenant or a restriction, the description in such notice may be the same as that contained in such recorded instrument or covenant or restriction, provided the same shall be sufficient to identify the property.

(d) A statement of the claim showing the nature, description, and extent of such claim or other right subject to extinguishment under this chapter or, in the case of a covenant or restriction, a copy of the covenant or restriction or a reference to the book and page or

instrument number in which the same is recorded, except that it is not necessary to show the amount of any claim for money or the terms of payment.

(e) If such claim or other right subject to extinguishment under this chapter is based upon an instrument of record or a recorded covenant or restriction, such instrument of record or recorded covenant or restriction shall be deemed sufficiently described to identify the same if the notice includes a reference to the book and page in which the same is recorded.

(f) Such notice shall be acknowledged in the same manner as deeds are acknowledged for record.

(2) Such notice shall be filed with the clerk of the circuit court of the county or counties where the land described therein is situated, together with a true copy thereof. The clerk shall enter, record, and index said notice in the same manner that deeds are entered, recorded, and indexed, as though the claimant were the grantee in the deed and the purported owner were the grantor in a deed, and the clerk shall charge the same fees for recording thereof as are charged for recording deeds. In those counties where the circuit court clerk maintains a tract index, such notice shall also be indexed therein.

(3) The person providing the notice referred to in s. 712.05, other than a notice for preservation of a community covenant or restriction, shall:

(a) Cause the clerk of the circuit court to mail by registered or certified mail to the purported owner of said property, as stated in such notice, a copy thereof and shall enter on the original, before recording the same, a certificate showing such mailing. For preparing the certificate, the claimant shall pay to the clerk the service charge as prescribed in s. 28.24(8) and the necessary costs of mailing, in addition to the recording charges as prescribed in s. 28.24(12). If the notice names purported owners having more than one address, the person filing the same shall furnish a true copy for each of the several addresses stated, and the clerk shall send one such copy to the purported owners named at each respective address. Such certificate shall be sufficient if the same reads substantially as follows:

I hereby certify that I did on this , mail by registered (or certified) mail a copy of the foregoing notice to each of the following at the address stated:

(Clerk of the circuit court)

of County, Florida,

By (Deputy clerk)

The clerk of the circuit court is not required to mail to the purported owner of such property any such notice that pertains solely to the preserving of any covenant or restriction or any portion of a covenant or restriction; or

(b) Publish once a week, for 2 consecutive weeks, the notice referred to in s. 712.05, with the official record book and page number in which such notice was recorded, in a newspaper as defined in chapter 50 in the county in which the property is located.

(4) Failure of any purported owner to receive the mailed notice shall not affect the validity of the notice or vitiate the effect of the filing of such notice.

History.—s. 6, ch. 63-133; s. 5, ch. 77-354; s. 7, ch. 82-205; s. 57, ch. 95-211; s. 4, ch. 97-202; s. 2, ch. 2003-79; s. 110, ch. 2003-402; s. 3, ch. 2010-104; s. 4, ch. 2018-55.

712.07 Limitations of actions and recording acts.—Nothing contained in this law shall be construed to extend the period for the bringing of an action or for the doing of any other act required under any statute of limitations or to affect the operation of any statute governing the effect of the recording or the failure to record any instrument affecting land. This law shall not vitiate any curative statute.

History.—s. 7, ch. 63-133.

712.08 Filing false claim.—No person shall use the privilege of filing notices hereunder for the purpose of asserting false or fictitious claims to land; and in any action relating thereto if the court shall find that any person has filed a false or fictitious claim, the court may award to the prevailing party all costs incurred by her or him in such action, including a reasonable attorney's fee, and in addition thereto may award to the prevailing party all damages that she or he may have sustained as a result of the filing of such notice of claim.

History.—s. 8, ch. 63-133; s. 799, ch. 97-102.

712.09 Extension of 30-year period.—If the 30-year period for filing notice under s. 712.05 shall have expired prior to July 1, 1965, such period shall be extended to July 1, 1965.

History.—s. 9, ch. 63-133.

712.095 Notice required by July 1, 1983.—Any person whose interest in land is derived from an instrument or court proceeding recorded subsequent to the root of title, which instrument or proceeding did not contain a description of the land as specified by s. 712.01(7), and whose interest had not been extinguished prior to July 1, 1981, shall have until July 1, 1983, to file a notice in accordance with s. 712.06 to preserve the interest.

History.—s. 2, ch. 81-242; s. 11, ch. 2018-55.

712.10 Law to be liberally construed.—This law shall be liberally construed to effect the legislative purpose of simplifying and facilitating land title transactions by allowing persons to rely on a record title as described in s. 712.02 subject only to such limitations as appear in s. 712.03.

History.—s. 10, ch. 63-133.

712.11 Covenant revitalization.—A property owners' association not otherwise subject to chapter 720 may use the procedures set forth in ss. 720.403-720.407 to revive covenants that have lapsed under the terms of this chapter.

History.—s. 1, ch. 2007-173; s. 5, ch. 2018-55.

712.12 Covenant or restriction revitalization by parcel owners not subject to a homeowners' association.—

(1) As used in this section, the term:

(a) "Community" means the real property that is subject to a covenant or restriction that is recorded in the county where the property is located.

(b) "Covenant or restriction" means any agreement or limitation imposed by a private party and not required by a governmental agency as a condition of a development permit, as defined in s. 163.3164, which is contained in a document recorded in the public records of the county in which a parcel is located and which subjects the parcel to any use restriction that may be enforced by a parcel owner.

(c) "Parcel" means real property that is used for residential purposes and that is subject to exclusive ownership and any covenant or restriction that may be enforced by a parcel owner.

(d) "Parcel owner" means the record owner of legal title to a parcel.

(2) The parcel owners of a community not subject to a homeowners' association may use the procedures set forth in ss. 720.403-720.407 to revive covenants or restrictions that have lapsed under the terms of this chapter, except:

(a) A reference to a homeowners' association or articles of incorporation or bylaws of a homeowners' association under ss. 720.403-720.407 is not required to revive the covenants or restrictions.

(b) The approval required under s. 720.405(6) must be in writing, and not at a meeting.

(c) The requirements under s. 720.407(2) may be satisfied by having the organizing committee execute the revived covenants or restrictions in the name of the community.

(d) The indexing requirements under s. 720.407(3) may be satisfied by indexing the community name in the covenants or restrictions as the grantee and the parcel owners as the grantors.

(3) With respect to any parcel that has ceased to be governed by covenants or restrictions as of October 1, 2018, the parcel owner may commence an action by October 1, 2019, for a judicial determination that the covenants or restrictions did not govern that parcel as of October 1, 2018, and that any revitalization of such covenants or restrictions as to that parcel would unconstitutionally deprive the parcel owner of rights or property.


(4) Revived covenants or restrictions that are implemented pursuant to this section do not apply to or affect the rights of the parcel owner which are recognized by any court order or judgment in any action commenced by October 1, 2019, and any such rights so recognized may not be subsequently altered by revived covenants or restrictions implemented under this section without the consent of the affected parcel owner.

Thanks

Bradford J. Tropello, Esquire
Blanchard, Merriam, Adel & Kirkland, P.A.
Attorneys at Law
(352) 732-7218
4 SE Broadway Street
Ocala, FL 34471

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 **Notice of Preservation - Majestic Oaks 2019.docx**
17 KB
