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0986

FILED
CHEROKEE COUNTY
DAPHNE DOCKERY
REGISTER OF DEEDS

FILED Dec 15, 2009
AT 08:38:16 am
BOOK 01374
START PAGE 0986
END PAGE 0992
INSTRUMENT # 06963

WARRANTY DEED

This instrument was prepared by Todd W. Davis of the law firm of Davis & Hallauer-fox. Title to the lands and/or interest in lands described herein is not certified unless a separate, written title opinion has been given to, or title insurance obtained for, the Grantees herein by said law firm.

State of North Carolina
County Of Cherokee

Title File No. 09-274

This Indenture made this the 4th day of **December, 2009**, by and between:

ROBERT C. KIRBY and wife, VALERIE A. KIRBY

hereinafter called Grantors, and

KEVIN KIRBY, Trustee of the Robert C. Kirby and Valerie A. Kirby Revocable Living Trust dated December 4, 2009

hereinafter called Grantees, (said designations shall include the respective parties, whether one or more, individual or corporate, and their respective successors in interest or assigns).

Witnesseth; That the Grantors, for and in consideration of the sum of Ten Dollars, and other good and valuable considerations to them in hand paid by the Grantees, the receipt whereof is hereby acknowledged, have and by these presents do give, grant, bargain, sell, convey and confirm unto the Grantees, their heirs and/or successors and assigns, (subject to the terms, conditions, covenants, restrictions, exceptions and reservations hereinafter stated, if any), the following particularly described real estate, located in Cherokee County, North Carolina to-wit:

SEE SCHEDULE "A" ATTACHED HERETO AND INCORPORATED HEREIN FOR REFERENCE

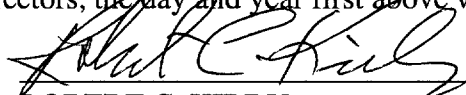
To Have and to Hold the above described land and premises, with all the appurtenances thereunto belonging, or in any wise appertaining, unto the Grantees, their heirs and/or successors and assigns forever, (subject to the terms, conditions, covenants, restrictions, exceptions and reservations hereinabove stated, if any).

And the Grantors covenant to and with the Grantees, their heirs and/or successors and assigns, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor.



CHEROKEE COUNTY, NORTH CAROLINA
155406499232000 155406474990000
155407524710000 155411380790000
PIN: 155412776056000 155407677601000
BY: [Signature] 12/15/09

In Witness Whereof each Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

 (SEAL)
ROBERT C. KIRBY

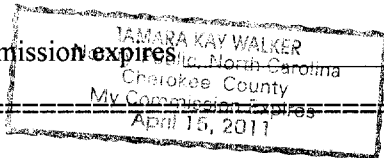
 (SEAL)
VALERIE A. KIRBY

=====
State of North Carolina, County of Cherokee

I, Tamara Kay Walker, a notary public for said county and state, does hereby certify that ROBERT C. KIRBY and VALERIE A. KIRBY, is personally known to me or who has/have produced _____ as identification and personally came before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal, this the 4th day of December, 2009.

 (Notary Seal)
Notary Public

My commission expires  TAMARA KAY WALKER
Notary Public
Cherokee County
My Commission Expires
April 15, 2011

Prepared By
Davis & Hallauer-fox
P.O. Box 920
Murphy, NC 28906
(828) 837-4133

DEED STAMPS: \$ _____

Schedule "A"

BK:01374 PG:0988

Parcel #455406499232000

All of that certain tract or parcel of land, together with a dwelling house situate thereon, being designated as Cottage Pine, Bear Paw Properties, Shoal Creek Township, Cherokee County, North Carolina, and being more particularly described according to a plat of survey by Palmer's Surveying Services, dated June 19, 1980, which is attached in Deed Book 905, Page 13, Cherokee County Registry and incorporated herein by reference, together with a 2.947 percent interest in Parcel Nos. 1, 2, and 3 containing 1.402 acres, more or less, as is more particularly described according to a plat of survey by Palmer's Surveying Services, dated June 19, 1980, and recorded in Plat Cabinet B, Slide 24, in the Office of the Register of Deeds of Cherokee County, North Carolina, reference to which is made hereby for incorporation herein.

FOR SOURCE OF TITLE to the herein-described tract, reference that tract designated XFBR-36 in Deed Book 293, Page 145, Cherokee County Registry.

THIS CONVEYANCE IS MADE EXPRESSLY SUBJECT TO the Declaration and Restrictive Covenants and Conditions governing the use and enjoyment thereof as set forth in that certain indenture dated July 17, 1980, and recorded in Deed Book 418, Page 61, Cherokee County Registry, reference to which is made for incorporation herein; the lien of ad valorem Cherokee County taxes for the current year; and easements for existing roads, streets, waterlines, sewer lines and public utilities which burden the subject property.

ALSO HEREIN CONVEYED is a non-exclusive, perpetual right of way over and across the existing subdivision access road which extends from the property herein conveyed through what is known as the Bear Paw Resort Properties to N.C.S.R. #1314 for purposes of ingress, egress and regress therefrom to this property.

The metes and bounds description of the Cottage lot herein described according to the aforesaid plat of survey is as follows:

BEGINNING on the northwest corner of said cottage at a point situate S 48-28-00 E 945.12 feet from TVA corner #1-8 and runs thence N 88-12-00 E 20.3 feet to the northeast corner of said building; thence S 01-48-00 E 34.50 feet to the southeast corner of said building; thence S 88-12-00 W 20.30 feet to the southwest corner of said building; thence N 01-48-00 W 34.50 feet to the BEGINNING.

FOR SOURCE OF TITLE reference Deed Book 1023, Page 718, Cherokee County, NC Registry.

Parcel #455406474990000

All that certain tract or parcel of land containing .27 acres, more or less, designated as Lot 43, Block 1, Section 8, Bear Paw Subdivision, (formerly known as Hiwassee Lake Estates), Hiwassee Dam, Shoal Creek Township, Cherokee County, North Carolina, as is more particularly described in Plat Cabinet B, Slide 81, Cherokee County Registry, reference to which is made for incorporation herein.

THIS CONVEYANCE IS SUBJECT TO the following Conditions and Restrictions:

1. Restrictions appearing of record in Book 217, Page 560, Cherokee County Records;
2. Rights, easements, rights-of-way, covenants, conditions, exceptions, disclaimers, and restrictions as set for in the instrument from the United States of America to Art E. Taylor and Bruce Young, Jr., Trustees dated February 17, 1959, and recorded in Book 209, Page 629, Cherokee County records;
3. Easements to Tri-State Electric Co-operative, recorded in Book 257, Page 72, Cherokee County records;
4. Title to that portion of the property within the normal bounds of Lake Hiwassee; and
5. Easement from Hiwassee Resort Village, Inc. To Tennessee Valley Authority, dated July 23, 1963, and recorded in Book 243, Page 138, Cherokee County records.

FOR SOURCE OF TITLE reference Deed Book 1224 Page 150, Cherokee County, NC Registry.

Parcel #455407574710000

Being known and designated as Lot 17 in Block 6, Section 1, in the Hiwassee Lake Estates Subdivision, Hiwassee Dam, North Carolina (now known as Bear Paw Subdivision), and being more particularly described as follows:

Beginning on Concrete Monument No. C-t, South corner of Lot 10, and runs thence with the lines of Lots 10 North 42 deg 56' East a distance of 72.5 feet to a point in the centerline of Lot 17 and Lot 18; thence with the proposed line of Lot 18 South 46 deg 50'44" East a distance of 156.66 feet to a point in the margin of Little Bear Road; thence, with said margin South 42 deg 16' West a distance of 71.90 feet to an iron pipe, east corner of Lot 16; thence with the line of Lot 16, North 47 deg 04' West a distance of 157.5 feet to the Beginning, containing .22 acres, more or less.

This conveyance is subject to any and all easements, restrictions and rights of way of record, if any.

FOR SOURCE OF TITLE reference Deed Book 1228 Page 506, Cherokee County, NC Registry.

Parcel #455411560790000

All that certain tract or parcel of land containing 0.27 acres, more or less, designated as Lot 7, Block 11, Section 6, Bear Paw Subdivision, (formerly known as Hiwassee Lake Estates), Hiwassee Dam, Shoal Creek Township, Cherokee County, North Carolina, as depicted on a plat of survey dated April 8, 1967, by L. R. Harding, Registered Civil Engineer and Felix Palmer, and being more particularly described as follows (all measurements are horizontal and all bearings magnetic):

BEGINNING on an iron pipe in the south line of Lot 6, being the northeast corner of Lot 8 (this pipe stands, South 74 deg 25' East a distance of 123.90 feet from Concrete Monument #C-144, and said Monument #C-144 stands, South 56 deg 00' East a distance of 101.60 feet from Concrete Monument #C-143); and runs thence with the line of said Lot 8, south a distance of 141.00 feet to an iron pipe in the north margin of Highland Trail; thence with the north margin of Highland Trail, South 65 deg 16' East a distance of 57.60 feet to an iron pipe at the intersection of Highland Trail and Whispering Pine Trail; thence along said intersection, North 50 deg 45' East a distance of 33.00 feet to an iron pipe in the west margin of Whispering Pine trail; thence with the west margin of Whispering Pine Trail, North 04 deg 44' East a distance of 120.10 feet to an iron pipe in said margin, being the southeast corner of Lot 6; thence with the line of said Lot 6, North 74 deg 25' West a distance of 91.10 feet to the point and place of BEGINNING, containing 0.27 acres, more or less.

Should there be any discrepancy between the above legal description and the aforementioned plat of survey, the survey plat shall prevail.

THIS CONVEYANCE IS SUBJECT TO the following Conditions and Restrictions:

1. Restrictions appearing of record in Book 217, Page 560, Cherokee County Records.
2. Rights, easements, rights-of-way, covenants, conditions, exceptions, disclaimers, and restrictions as set for in the instrument from the United States of America to Art E. Taylor and Bruce Young, Jr., Trustees dated February 17, 1959, and recorded in Book 209, Page 629, Cherokee County records;
3. Easements to Tri-State Electric Co-operative, recorded in Book 257, Page 72, Cherokee County records;
4. Title to that portion of the property within the normal bounds of Lake Hiwassee; and
5. Easement from Hiwassee Resort Village, Inc. To Tennessee Valley Authority, dated July 23, 1963, and recorded in Book 243, Page 138, Cherokee County records.

FOR SOURCE OF TITLE reference Deed Book 1228 Page 439 Cherokee County, NC Registry.

Parcel #455412776056000

All that certain tract or parcel of land containing 0.32 acres, more or less, designated as Lot 6, Block 10, Section 4, Bear Paw Subdivision, (formerly known as Hiwassee Lake Estates), Hiwassee Dam, Shoal Creek Township, Cherokee County, North Carolina, as depicted on a plat of survey dated

March 18, 1965, by L. R. Harding, Registered Civil Engineer and James Sullivan, and being more particularly described as follows (all measurements are horizontal and all bearings magnetic):

BEGINNING on Concrete Monument No. C-85, being the south corner of Lot 16 (said monument stands, North 55 deg 15' East a distance of 149.00 feet from Concrete Monument No. C-84) and runs thence with the line of Lot 16, North 50 deg 47' East a distance of 75.00 feet to an iron pipe, being the northwest corner of Lot 3; thence with the lines of Lots 3, 4 and 5, South 39 deg 13' East a distance of 227.50 feet to an iron pipe in the north margin of Mountain View Drive; thence with the curved north margin of said Mountain View Drive, chord distance across the curve being, North 80 deg 45' West a distance of 112.90 feet to an iron pipe, being the east corner of Lot 7; thence with the line of Lot 7, North 39 deg 13' West a distance of 142.90 feet to the point and place of BEGINNING, containing 0.32 acres, more or less. Should there be any discrepancy between the above legal description and the aforementioned plat of survey, the survey plat shall prevail.

THIS CONVEYANCE IS SUBJECT TO the following Conditions and Restrictions:

1. Restrictions appearing of record in Book 217, Page 560, Cherokee County Records.
2. Rights, easements, rights-of-way, covenants, conditions, exceptions, disclaimers, and restrictions as set for in the instrument from the United States of America to Art E. Taylor and Bruce Young, Jr., Trustees dated February 17, 1959, and recorded in Book 209, Page 629, Cherokee County records;
3. Easements to Tri-State Electric Co-operative, recorded in Book 257, Page 72, Cherokee County records;
4. Title to that portion of the property within the normal bounds of Lake Hiwassee; and
5. Easement from Hiwassee Resort Village, Inc. To Tennessee Valley Authority, dated July 23, 1963, and recorded in Book 243, Page 138, Cherokee County records.

For source of title reference Deed Book 1225, page 728, Cherokee County, NC Registry.

Parcel #455407677801000

All that certain tract or parcel of land containing 0.53 acres, more or less, and being designated as Lots 22 & 23, Block 10, Section 1, Bear Paw, Shoal Creek Township, Cherokee County, North Carolina, and being more particularly described according to a plat of survey dated October 13, 2004, by Felix Edward Palmer, Jr., P.L.S., and from said plat described as follows:

BEGINNING on an iron pipe (found) situate at the west right of way margin of the existing access road known as Village Road, said BEGINNING corner being situate, N 90-00 E 37.87 feet from an iron pipe (found) which is a corner common with Lots 19 & 21 of Block 10, Section 1, Bear Paw, and runs thence from said BEGINNING corner and with the west, northwest and north right of way margin of Village Road, S 23-30 W 35.60 feet, S 40-59 W 104.90 feet, S 49-50 W 20.00 feet to an iron pipe (found), S 49-50 W 52.70 feet, S 86-38 W 81.50 feet, and N 73-47 W 62.31 feet to a point of intersection of the north right of way margin of Village Road with the east right of way margin of Smokey View Lane; thence with the east right of way margin of Smokey View Lane N 65-08 E 54.74 feet, N 46-31 E 49.42 feet, N 31-20 E 33.56 feet, N 13-21 E 32.02 feet, and N 19-14 W 30.99 feet to an iron pipe (found); thence turning and leaving Smokey View Lane and running with a line common to Lot 21, Block 10, Section 1, N 90-00 E 141.71 feet to an iron pipe (found); thence with a line common to Lot 19, Block 10, Section 1, N 90-00 E 37.87 feet to the BEGINNING.

ALSO HEREIN CONVEYED is a non-exclusive, perpetual right of way and easement, over and across the existing access roads which serve Bear Paw, including the rights to use Village road and Smokey View Lane, for the purposes of ingress, egress, regress and utilities thereon from the above described lot to the public road.

THIS CONVEYANCE IS SUBJECT TO the following Conditions and Restrictions:

1. Restrictions appearing of record in Book 217, Page 560, Cherokee County Records.
2. Rights, easements, rights-of-way, covenants, conditions, exceptions, disclaimers, and restrictions as set for in the instrument from the United States of America to Art E. Taylor and Bruce Young, Jr., Trustees dated February 17, 1959, and recorded in Book 209, Page 629, Cherokee County records;

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BK:01374 PG:0991

3. Easements to Tri-State Electric Co-operative, recorded in Book 257, Page 72, Cherokee County records;
4. Title to that portion of the property within the normal bounds of Lake Hiwassee; and
5. Easement from Hiwassee Resort Village, Inc. To Tennessee Valley Authority, dated July 23, 1963, and recorded in Book 243, Page 138, Cherokee County records.

For source of title reference Deed Book 1126 Page 397, Cherokee County, NC Registry.

Schedule "B"

1. The Trustee is vested with full rights of ownership over and above described real estate and it is specifically granted and given the power and authority.
 - a. To protect and conserve said real estate and improvements located thereon and to pay the taxes assessed thereon;
 - b. To sell and convey said real estate, for cash or on credits, at public or private sale, to exchange said real estate for other property and to grant options to sell said property and to determine the price and terms of sale exchanges and options;
 - c. To execute leases and subleases for terms as long as 100 years, to subdivide or improve said real estate and tear down or alter improvements, to grant easements, give consent and make contracts relating to said real estate or its use and to release or dedicate any interest in said real estate;
 - d. To borrow money and to mortgage, pledge or encumber any and all of the said real estate to secure payment thereof, with authorization from Settlers;
 - e. To manage, control and operate said real estate, to collect the rents, issues and profits, to pay all expenses thereby incurred, and in addition to manage and operate any business that may now or hereafter be operated and maintained on said real estate. If Settlers are/is unable to perform same.

2. No purchaser, grantee, mortgagee, lessee, assignee or any other person dealing with the Trustee need see to the application of any proceeds of any sale, lease, mortgage or pledge, but the receipt of the Trustee shall be a complete discharge and acquittance therefor. Any and all persons, including but not limited to grantees, mortgagees, lessees, transferors, and assigns dealing with said Trustee need not inquire into the identification or status of any beneficiary under this deed or any collateral instrument nor inquire into or ascertain the authority of such Trustee to act in and exercise the powers granted by this deed or of adequacy or disposition of any consideration paid to Trustee nor inquire into the provisions of said unrecorded Trust Agreement collateral hereto.