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TRANSYLVANIA COUNTY
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STATE OF NORTH CAROLINA
FEB-3'88
PB. 10701



Real Estate Excise Tax

38.00

1/13/88 PM

Prepared by:

~~LAKE TOXAWAY CO.~~

RAMSEY, HILL, SMART, RAMSEY & PRATT, PA
Prepared by: Gayle E. Ramsey

COUNTY OF TRANSYLVANIA.

THIS DEED, made this 15th day of January, 1988, by LAKE TOXAWAY CO., a North Carolina corporation, hereinafter called "Grantor," to GORDON D. GIFFIN, 172 North Mill Road NW, Atlanta, Georgia 30328

hereinafter called "Grantee." The designations, "Grantor" and "Grantee," as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH:

That Grantor, for and in consideration of the sum of THIRTY-EIGHT THOUSAND AND 00/100 -----
DOLLARS (\$38,000.00), the receipt of which is hereby acknowledged, has given, granted, bargained, sold and conveyed, and by these presents, does give, grant, bargain, sell and convey to Grantee in fee simple, subject to all limitations, restrictions, easements, reservations and other conditions set out or referred to herein, the following described property located in Hogback Township, Transylvania County, North Carolina:

Being all of Lot No. 38 of Block K of the subdivision of a portion of the property of Lake Toxaway Co. as shown by a plat thereof recorded in Plat File 2, Slide 366, Records of Plats for Transylvania County, North Carolina.

This conveyance is made subject to all matters shown on the plat hereinabove referred to and to restrictive and protective covenants and easements recorded in Book 277, page 302, Records of Deeds for Transylvania County, North Carolina, which are identical to Articles I through XX of the reservations and restrictive and protective covenants set out below.

TO HAVE AND TO HOLD the aforesaid land and premises, and all privileges and appurtenances thereunto belonging, or in any wise appertaining, unto Grantee, Grantee's heirs and/or successors and assigns, forever, subject, nevertheless, to all conditions, restrictions, limitations, reservations, easements and other matters hereinafter set out or referred to.

This conveyance is made subject to the following:

1. County real estate taxes for the current year and all subsequent years.
2. By the acceptance of the delivery of this deed and the recordation thereof, Grantee agrees to become a member of and be bound by the bylaws and rules and regulations of Lake Toxaway Property Owners Association, Inc. including the obligation to pay such assessments for road maintenance and other proper expenditures as shall be levied by the Board of Directors of said association, with such road maintenance assessments to include such sums as the Board of Directors of said association shall determine as being Grantee's fair share of the cost of repairing, maintaining and replacing the roads which afford the property hereinabove described with access to the public road.
3. Conditions, restrictions, limitations, reservations, and easements of record and all other matters of record including all matters shown on the plat hereinabove referred to and the following reservations and restrictive and protective covenants:

ARTICLE I. LAND USE AND BUILDING TYPE. The lot shall be used for residential purposes only. No building shall be erected thereon other than one detached single-family dwelling not to exceed two and one-half stories in height and a private garage, and, with the approval of the Architectural Control Committee, quarters for servants.

* ~~ARTICLE II. RESERVATIONS AND RESTRICTIVE COVENANTS. The following reservations and restrictive covenants are made in and to the property hereinabove described and shall run with the land and bind the heirs, successors and assigns of the grantor and the grantee. The grantor, Lake Toxaway Co., hereby reserves and covenants that the property hereinabove described shall be used for residential purposes only and shall be subject to the restrictions and covenants set forth in the plat of subdivision of a portion of the property of Lake Toxaway Co. as shown by a plat thereof recorded in Plat File 2, Slide 366, Records of Plats for Transylvania County, North Carolina. The grantor, Lake Toxaway Co., hereby reserves and covenants that the property hereinabove described shall be subject to the restrictions and covenants set forth in the plat of subdivision of a portion of the property of Lake Toxaway Co. as shown by a plat thereof recorded in Plat File 2, Slide 366, Records of Plats for Transylvania County, North Carolina. The grantor, Lake Toxaway Co., hereby reserves and covenants that the property hereinabove described shall be subject to the restrictions and covenants set forth in the plat of subdivision of a portion of the property of Lake Toxaway Co. as shown by a plat thereof recorded in Plat File 2, Slide 366, Records of Plats for Transylvania County, North Carolina.~~

ARTICLE III. ARCHITECTURAL CONTROL COMMITTEE. Lake Toxaway Property Owners Association, Inc., its successors and assigns, shall annually appoint an Architectural Control Committee, consisting of three competent persons as members to serve until their successors are appointed. A majority of said Committee may also designate a representative to act for it. The Committee's approval or disapproval as required by Article II and Article IV of these restrictions shall be in writing. In the event that the Committee, or its designated representative, fails to approve or disapprove any matter properly submitted for its approval hereunder within thirty (30) days after proper plans and specifications have been submitted, or in any event, if no suit to enjoin any construction or improvement required to be submitted for approval hereunder and properly submitted and started after the expiration of said 30-day period has been commenced prior to the completion thereof, approval shall not be required, and the provisions of this article shall be deemed to have been fully complied with.

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ARTICLE IV. BUILDING LOCATION. No building shall be located on the lot nearer to the front line or nearer to the street line than the minimum building set-back line shown on any plat which Grantor may prepare and record of lots in the immediate vicinity thereof. In the event that no minimum building set-back line is shown on the plat, the location of buildings and other improvements on the lot shall be approved by the Architectural Control Committee.

ARTICLE V. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, approved boat house or other outbuilding shall be used on the lot at any time as a residence, either temporarily or permanently.

ARTICLE VI. SEWERAGE DISPOSAL. No sewerage system shall be permitted on the lot except such system as is located, constructed and equipped in accordance with the minimum requirements of the State Board of Health. Approval of such system shall be obtained from the health authority having jurisdiction. In the event that any body politic provides a public sewerage system available to the lot, sewerage disposal thereon shall be by said public sewerage system.

ARTICLE VII. GARBAGE AND REFUSE DISPOSAL. The lot shall not be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage of such material shall be kept in a clean and sanitary condition.

ARTICLE VIII. LIVESTOCK AND POULTRY. No animals, livestock or poultry of any kind shall be raised, bred, or kept on the lot except that dogs, cats or other household pets may be kept, provided that they are not bred or maintained for commercial purposes.

ARTICLE IX. NUISANCES. No noxious or offensive activity shall be carried on upon the lot, or anything be done thereon which may become an annoyance or nuisance to the neighborhood.

ARTICLE X. LAKE PRIVILEGES. The owner of the lot shall have the same privileges in and to the use of Lake Toxaway as other persons to whom Lake Toxaway Co. has sold lots, provided, however, that the owner is a member of the Lake Toxaway Country Club.

ARTICLE XI. WATER LEVEL OF LAKE TOXAWAY. Grantor reserves the right at all times to control the water level of Lake Toxaway.

ARTICLE XII. BOATS ON LAKE TOXAWAY. Operation of boats on Lake Toxaway will be controlled by rules and regulations from time to time established by Grantor. However, a noisy boat will not be tolerated under any circumstances.

ARTICLE XIII. BOAT HOUSE AND BOAT DOCKS. Any structure for the purpose of housing a boat must be approved by the Architectural Control Committee and shall be one story in height and not exceed twenty (20) feet in width. It shall be constructed perpendicular to the shore line of Lake Toxaway and shall not extend beyond the high water line thereof. No such structure shall be built on the lot unless a permanent residence has been constructed thereon or is under construction. Boat docks shall not extend into Lake Toxaway any farther than necessary to get full boat usage.

ARTICLE XIV. EASEMENTS AND RIGHTS OF WAY. An easement and right of way are hereby expressly reserved in and over all existing access roads for travel of all kinds and in and over a strip of land five feet in width along the rear line, side lines, and front line of the lot for the construction and maintenance of electric light, power and telephone service lines, storm water drains, land drains, public and private sewers, pipelines supplying gas and water, or other public or quasi-public utility. Grantor shall have the right to enter and permit others to enter upon said reserved roads and strip.

ARTICLE XV. TERM. All of the restrictions, conditions, covenants, charges, easements and agreements contained herein shall run with the land and be binding on all parties and all persons claiming under them in perpetuity.

ARTICLE XVI. ENFORCEMENT. Grantor and each person to whose benefit these restrictions inure, including Lake Toxaway Property Owners Association, Inc., and other lot owners in the Subdivision, may proceed at law or in equity against any person or other legal entity violating or attempting to violate any provisions of these restrictions, either to restrain violation, or to recover damages, or both.

ARTICLE XVII. OPTION TO PURCHASE. In consideration of the agreement by Grantor to restrict other lots sold by it in the same subdivision, Grantee agrees that if Grantee should desire to sell the said lot or any interest therein, and receives a bona fide satisfactory offer therefor, Grantee shall, before accepting said satisfactory offer, submit to Grantor, in writing by certified mail, return receipt requested, the terms of said offer, the name(s) and address(es) of the offeror(s) and an offer to convey the lot to Grantor at the same price and terms. Grantor shall have a period of thirty (30) days after receipt of said written notice within which to exercise its right to accept said offer and shall have an additional period of not less than twenty (20) days within which to complete the said transaction. In the event that Grantor does not elect to purchase within said 30-day period, then Grantee may sell said lot to the offeror(s) named in said notice. Acceptance of said offer by Grantor shall be in writing by certified mail, return receipt requested, to Grantee at the address given in said notice.


ARTICLE XVIII. RIGHT OF SALE. As a part of the consideration for this conveyance, Grantee agrees that if Grantee should desire to sell the lot hereby conveyed and does not sell it directly without utilizing the services of any realtor, broker or other salesperson or agent either directly or indirectly, Grantee will grant to Grantor the exclusive right of sale thereof at the prevailing rate of sales commission for a period of one year from the date of such exclusive listing.

ARTICLE XIX. SEVERABILITY. Invalidation of any one of these restrictions by judgment or court order shall in no wise affect any of the other provisions, which shall remain in full force and effect.

ARTICLE XX. ASSIGNMENT OF GRANTOR'S RIGHTS. Grantor's rights under these restrictions may be assigned at any time, in whole or in part, to any other person, persons or legal entity, including but not limited to Lake Toxaway Property Owners Association, Inc.

Grantor covenants to and with Grantee, that Grantor is lawfully seized in fee simple of said premises, that Grantor has full right and power to convey the same in fee simple, that said premises are free from any and all encumbrances, except as set forth above, and that except for the exceptions set forth above, Grantor will warrant and defend the title to said premises against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has caused this deed to be signed in its corporate name by its duly authorized officers and its corporate seal to be hereunto affixed by authority of its Board of Directors, this the day and year first above written:

ATTEST:

Hazel Fisher
(Assistant) Secretary

LAKE TOXAWAY CO.
By: R. D. Heintz, Jr.
President

STATE OF NORTH CAROLINA,
COUNTY OF TRANSYLVANIA

This is to certify that on this day before me personally came Hazel Fisher with whom I am personally acquainted, who, being by me duly sworn, says that R. D. HEINITSH, JR. is the President and she is the (Assistant) Secretary of LAKE TOXAWAY CO., the corporation described in and which executed the foregoing instrument; that she knows the common seal and the name of said Corporation was subscribed thereto by said President, and the said President and said (Assistant) Secretary subscribed their names thereto, and said common seal was affixed, all by said order of the Board of Directors of said Corporation, and the said instrument is the act and deed of said Corporation.

WITNESS my hand and notarial seal, this 20th day of January, 1988.
Kim C. Frank
Notary Seal

My Commission Expires: 11/29/92

STATE OF NORTH CAROLINA,
COUNTY OF TRANSYLVANIA.

The foregoing certificate of Kim C. Frank, a Notary Public, is certified to be correct. This deed was presented for registration and recorded in this office in Book 302, Page 513, Records of Deeds.

This the 3rd day of Feb, 1988, at 4:30 o'clock P.M.

Lisa H. Isreal
Register of Deeds
By: _____
Deputy Register of Deeds

* ARTICLE II. ARCHITECTURAL CONTROL. No building, fence, hedge, wall or other structure shall be erected or maintained, nor shall any addition thereto be made until the construction plans and specifications and a plan showing its location on the lot have been submitted in writing to and approved in writing by the Architectural Control Committee. The decision of the Architectural Control Committee shall be final and binding. The minimum square footage of any dwelling on Lots 32, 33, 34, 35, 36, 37 and 38 of Block K shall be not less than 1,850 square feet in the living area of the home, with a minimum of 1,000 square feet of fully enclosed floor area on the main floor. The minimum square footage of any dwelling on Lots 39, 40, 41, 42, 43, 44, 45, 46, 47, 48 and 49 of Block K shall be less than 1,500 square feet in the living area of the home, with a minimum of 1,000 square feet of fully enclosed floor area on the main floor. No signs shall be allowed on any lot without the permission of Lake Toxaway Property Owners Association, Inc.