

PLEASE COMPLETE THIS INFORMATION,

RECORDING REQUESTED BY:

The Grande South at Santa Fe Place  
Homeowners Association

AND WHEN RECORDED MAIL TO:

Jeffrey A. French, Esq.  
Green, Bryant & French, LLP  
402 West Broadway, Suite 1950  
San Diego, CA 92101  
(619) 239-7900

DOC# 2019-0187334



May 17, 2019 10:47 AM

OFFICIAL RECORDS

Ernest J. Dronenburg, Jr.,

SAN DIEGO COUNTY RECORDER

FEES: \$125.00 (SB2 Atkins: \$75.00)

PAGES: 13

*THIS SPACE FOR RECORDER'S USE ONLY*

FIRST AMENDMENT TO SECOND AMENDED AND  
RESTATED DECLARATION

(Please fill in document title(s) on this line)

OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR  
THE GRANDE SOUTH AT SANTA FE PLACE HOMEOWNERS  
ASSOCIATION  
(2019)

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION  
(Additional recording fee applies)

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

The Grande South at Santa Fe Place  
Homeowners Association  
c/o Jeffrey A. French, Esq.  
GREEN BRYANT & FRENCH, LLP  
402 W. Broadway, Suite 1950  
San Diego, CA 92101  
(619) 239-7900

Space Above for Recorder's Use

**FIRST AMENDMENT TO SECOND AMENDED AND  
RESTATED DECLARATION  
OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR  
THE GRANDE SOUTH AT SANTA FE PLACE HOMEOWNERS  
ASSOCIATION  
(2019)**

**If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.**

**FIRST AMENDMENT TO THE SECOND AMENDED AND RESTATED DECLARATION  
OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE GRANDE SOUTH AT  
SANTA FE PLACE HOMEOWNERS ASSOCIATION**

BY THIS FIRST AMENDMENT TO THE SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS of The Grande South at Santa Fe Place Homeowners Association ("Association"), a California Non-Profit Corporation, the undersigned, which Association has responsibility for the management and control of certain real property located in San Diego County, State of California, commonly referred to the Grande South at Santa Fe Place (specifically described below), which is subject to that certain Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions (the "Second Restated Declaration") dated January 5, 2017, and recorded at File/Page No. 2017-0006423 in the Office of the Recorder of San Diego County, more particularly described as:

Lot 2 of The Grande at Santa Fe Place, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 14467, as filed in the Office of the County Recorder of San Diego County on October 7, 2002.

The Association hereby amends the Second Restated Declaration as follows:

**WHEREAS**, a Declaration of Covenants, Conditions, and Restrictions was recorded on October 9, 2002, as Instrument No. 2002-0872994, in the Office of the Recorder of San Diego County ("Original Declaration").

**WHEREAS**, an Amended and Restated Declaration of Covenants, Conditions, and Restrictions was recorded on December 30, 2003, as Instrument No. 2003-1521100, in the Office of the Recorder of San Diego County ("First Restated Declaration").

**WHEREAS**, an Amendment to the First Restated Declaration was recorded on May 30, 2007, as Instrument No. 2007-0365166 in the Office of the Recorder of San Diego County.

**WHEREAS**, a Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions was recorded on January 5, 2017, as Instrument No. 2017-0006423, in the Office of the Recorder of San Diego County ("Second Restated Declaration"). This Second Restated Declaration was recorded after the Association had pursued a Civil Code section 4275 petition to reduce the percentage of votes required to amend the First Restated Declaration. The petition was heard by Judge Schall on October 21, 2016, and the petition was granted subject to Judge Schall's order dated October 25, 2016.

**WHEREAS**, owner Roger D. Williams filed a notice of appeal on or about February 28, 2017, contesting the order on the Association's petition issues by Judge Schall. This appeal was decided on October 4, 2018, with instructions from the Appellate Court remanding the matter back to the trial court for issuance of a revised order consistent with the Appellate Court's opinion.

**WHEREAS**, Judge Schall retired from the bench during the pendency of the appeal and the matter was assigned to Judge David Rubin of Department 903 of the San Diego Superior Court. On or about January 28, 2019, the parties appeared before Judge Rubin to discuss the matter of a revised order.

Judge Rubin set the matter for hearing and also indicated that the parties might resolve the matter on their own before the hearing.

**WHEREAS**, the parties were successful in arriving at a stipulated order and submitted the order to Judge Rubin for execution. On or about March 11, 2019, Judge Rubin executed the order and provided the final order to the Parties. By this amendment the Association now seeks to replace the original order issued by Judge Schall on October 25, 2016 with the revised order issued by Judge Rubin on March 11, 2019 such that the revised order now becomes the operative Exhibit "K" to the Second Restated Declaration.

**WHEREAS**, this current amendment shall, upon recordation, be the First Amendment to the Second Restated Declaration.

**NOW, THEREFORE**, the Association hereby amends the Second Restated Declaration as set forth below.

1. Exhibit "K" "Order Granting Petition to Reduce the Required Voting Percentage to Amend and Restate the CC&Rs" dated October 25, 2016 is deleted in its entirety and there is substituted in its place as new Exhibit "K" "Modified Order After Appeal and Remand" dated March 11, 2019. A true and correct copy of new Exhibit "K" is attached hereto and made a part of the Second Restated Declaration upon recordation of this First Amendment.

2. All other provisions of the Second Restated Declaration shall remain in full force and effect. This First Amendment shall take effect immediately upon recordation in the Official Records.

**CERTIFICATION AND CERTIFICATE OF AMENDMENT**

(California Civil Code Section 4270)

We, the undersigned, do hereby certify the following:

1. That we are the duly elected and acting President and Secretary of The Grande South at Santa Fe Place Homeowners Association;
2. That this First Amendment to the Second Restated Declaration is being unilaterally recorded with the County of San Diego by the Association to carry out the directives of the Appellate Court and Superior Court, so that the "Modified Order After Appeal and Remand" is inserted as the operative Exhibit "K" for the Second Restated CC&Rs.

Executed this 8 day of MAY, 2019, in the City of San Diego, County of San Diego, State of California.

THE GRANDE SOUTH AT SANTA FE PLACE  
HOMEOWNERS ASSOCIATION

By: Rund Barbano

Print Name: Rund Barbano  
*John*

Title: Secretary

By: Betsey A. Gibbs

Print Name: Betsey Gibbs  
*Arenberg*

Title: Director

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE §1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California ) ss.

County of San Diego )

On May 8, 2019, before me, JAMES LINNA, Notary Public

Date Here Insert Name and Title of the Officer  
personally appeared RAND JOHN BARBANO

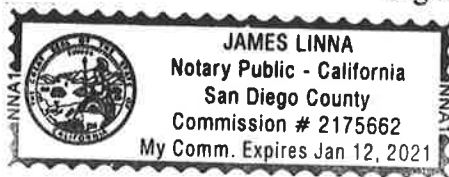
Name(s) of Signer(s)  
BETSEY ARENBERG GIBBS

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature]  
Signature of Notary Public



Notary Seal

Description of Attached Document: DECLARATION of GCBR'S  
Type of Document: FIRST Amendment TO SECOND amendment  
Document Date: May 8, 2019

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE §1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California ) ss.

County of San Diego )

On MAY 8, 2019, before me, JAMES LINNA, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared BETSEY ARENBERG GIBBS,  
Name(s) of Signer(s)  
AND JOHN BALBANO

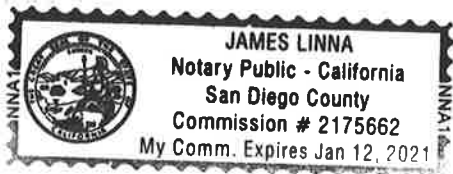
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature James Linna  
Signature of Notary Public

Notary Seal



Description of Attached Document: DECLARATION of CC&R'S  
Type of Document: FIRST AMENDMENT to SECOND AMENDMENT  
Document Date: MAY 8, 2019

**EXHIBIT "K"**

CIV-130

<p><small>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):</small>  <b>TIMOTHY D. PRINCIPE, ESQ. (#116101)</b>  <b>BLACKMAR, PRINCIPE &amp; SCHMELTER, A.P.C.</b>  <b>600 B STREET, SUITE 2250</b>  <b>SAN DIEGO, CA 92101</b></p> <p>TELEPHONE NO: 619.238.8900      FAX NO. (Optional): 619.236.8180</p> <p>E-MAIL ADDRESS (Optional):</p> <p>ATTORNEY FOR (Name): <b>RESPONDENT ROGER D. WILLIAMS</b></p>	<p align="center"><small>FOR COURT USE ONLY</small></p>
<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b>                  STREET ADDRESS: 330 W. BROADWAY                  MAILING ADDRESS:                  CITY AND ZIP CODE: SAN DIEGO, CA 92101                  BRANCH NAME: CENTRAL DIVISION</p>	
<p>PLAINTIFF/PETITIONER: THE GRANDE SOUTH AT SANTA FE PLACE                  DEFENDANT/RESPONDENT: ROGER D. WILLIAMS</p>	
<p align="center"><b>NOTICE OF ENTRY OF JUDGMENT OR ORDER</b></p> <p>(Check one):    <input checked="" type="checkbox"/> <b>UNLIMITED CASE</b>      <input type="checkbox"/> <b>LIMITED CASE</b>                  (Amount demanded exceeded \$25,000)      (Amount demanded was \$25,000 or less)</p>	<p>CASE NUMBER:  37-2016-00029784-CU-PT-CTL</p>

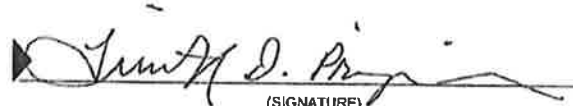
**TO ALL PARTIES :**

1. A judgment, decree, or order was entered in this action on (date): MARCH 11, 2019
2. A copy of the judgment, decree, or order is attached to this notice.

Date: MARCH 12, 2019

**TIMOTHY D. PRINCIPE**

(TYPE OR PRINT NAME OF  ATTORNEY     PARTY WITHOUT ATTORNEY)

  
 (SIGNATURE)



PLAINTIFF/PETITIONER: THE GRANDE SOUTH AT SANTA FE PLACE	CASE NUMBER:
DEFENDANT/RESPONDENT: ROGER D. WILLIAMS	37-2016-00029784-CU-PT-CTL

**PROOF OF SERVICE BY FIRST-CLASS MAIL  
NOTICE OF ENTRY OF JUDGMENT OR ORDER**

*(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)*


1. I am at least 18 years old and not a party to this action. I am a resident of or employed in the county where the mailing took place, and my residence or business address is (specify):  
600 B STREET, SUITE 2250, SAN DIEGO, CA 92101
  
2. I served a copy of the *Notice of Entry of Judgment or Order* by enclosing it in a sealed envelope with postage fully prepaid and (check one):
  - a.  deposited the sealed envelope with the United States Postal Service.
  - b.  placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
  
3. The *Notice of Entry of Judgment or Order* was mailed:
  - a. on (date): MARCH 12, 2019
  - b. from (city and state): SAN DIEGO, CALIFORNIA
  
4. The envelope was addressed and mailed as follows:
 

<ol style="list-style-type: none"> <li>a. Name of person served: JEFFREY FRENCH GREEN BRYANT &amp; FRENCH, LLP Street address: 402 W. BROADWAY, #1950 City: SAN DIEGO State and zip code: CA, 92101</li> <li>b. Name of person served:  Street address: City: State and zip code:</li> </ol>	<ol style="list-style-type: none"> <li>c. Name of person served:  Street address: City: State and zip code:</li> <li>d. Name of person served:  Street address: City: State and zip code:</li> </ol>
--	--

Names and addresses of additional persons served are attached. (You may use form POS-030(P).)
  
5. Number of pages attached 4.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.  
Date: MARCH 12, 2019

ARLENE AMMONS  
\_\_\_\_\_  
(TYPE OR PRINT NAME OF DECLARANT)

  
\_\_\_\_\_  
(SIGNATURE OF DECLARANT)

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO**

<p>IN RE:</p> <p>THE GRANDE SOUTH AT SANTA FE PLACE HOMEOWNERS ASSOCIATION, a California nonprofit mutual benefit corporation,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ROGER D. WILLIAMS,</p> <p style="text-align: center;">Respondent.</p>	<p><b>CASE NO. 37-2016-00029784-CU-PT-CTL</b></p> <p><b>MODIFIED ORDER AFTER APPEAL AND REMAND</b></p> <p>Dept.: 903 Judge: Hon. David. M. Rubin</p>
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The Petition of THE GRANDE SOUTH AT SANTA FE PLACE HOMEOWNERS ASSOCIATION ("Association" or "Petitioner") to reduce the required voting percentage to amend and restate the Declaration of Covenants, Conditions and Restrictions initially came on for hearing on October 21, 2016. Jeffrey A. French, Esq. and Michael J. Porrazzo, Esq. appeared on behalf of Petitioner. Respondent Roger D. Williams filed an Opposition to the Petition and appeared at the hearing in pro per. On October 25, 2016, the Court signed an "Order Granting Petition To Reduce The Required Voting Percentage To Amend And Restate The CC&RS" (the "Order").

1 On or about February 28, 2017, Respondent Williams filed a Notice of Appeal from the  
2 Order. On October 4, 2018, in an unpublished opinion, the Court of Appeal modified the Order,  
3 and as modified affirmed the Order and remanded the matter to the Superior Court for further  
4 proceedings in conformity with the opinion. This Modified Order is entered after remand by the  
5 Court of Appeal, and supersedes and supplants the prior Order of the Superior Court dated  
6 October 25, 2016, which was attached to the Second Amended and Restated CC&RS (Doc. #  
7 2017-0006423) as Exhibit "K."

8  
9 **THE COURT NOW FINDS:**

- 10 1. The Association has complied with the requirements of Civil Code section 4275.  
11  
12 2. Proper notice of the hearing on the Petition was served by mail to all Members of  
13 the Association on September 16, 2016.  
14  
15 3. Balloting on the proposed Amended and Restated Declaration of Covenants,  
16 Conditions and Restrictions for the Association ("CC&Rs") was conducted in accordance with all  
17 the applicable provisions of the governing documents of the common interest development.  
18  
19 4. The Association made a reasonably diligent effort to permit all eligible members  
20 of the Association to vote on the proposed restatement to the CC&Rs, including extending the  
21 voting period twice.  
22  
23 5. Members having more than fifty percent (50%) of the votes in the Association  
24 under the single voting structure voted in favor of the proposed restatement to the CC&Rs.  
25  
26 6. The proposed restatement to the CC&Rs is reasonable, *provided it is subject to*  
27 *adequate protections against prohibitions and restrictions on the use and alienability of property*  
28 *by existing owners as set forth below.*  
7. Granting the Petition is not improper for any of the reasons stated in Civil Code  
section 4275, subdivision (e).

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**IT IS ORDERED AS FOLLOWS:**

1. The voting requirements in Article 15, Section 15.2 of the CC&Rs have been reduced, consistent with Civil Code section 4275. The restatement to the CC&Rs is adopted and the restatement is confirmed, *subject however to Civil Code section 4740*, which states in part:

(a) An owner of a separate interest in a common interest development shall not be subject to a provision in a governing document or an amendment to a governing document that prohibits the rental or leasing of any of the separate interests in that common interest development to a renter, lessee, or tenant unless that governing document, or amendment thereto, was effective prior to the date the owner acquired title to his or her separate interest.

2. Pursuant to Civil Code section 4740, the rental period, occupancy, notice and limit on guest stay provisions (the "Challenged Amendments") in the Second Amended and Restated CC&RS (Doc. # 2017-0006423), set forth in sections 7.1.2, 7.1.3, 7.1.4 and 7.3, shall not apply to Respondent Roger D. Williams, or to any other Owners who purchased their Units in Grande South on or before January 5, 2017. Instead, Williams and all other existing Owners as of January 5, 2017, shall be subject to the rental, leasing, occupancy, notice and limit on guest stay provisions set forth in the Amended and Restated CC&Rs (Doc. #2003-1521100) and other Governing Documents existing at that time. The Challenged Amendments shall apply only to owners who acquire their ownership interests in Grande South after January 5, 2017.

**IT IS SO ORDERED.**

DATED: MAR 11 2019

DAVID M. RUBIN  
JUDGE OF THE SUPERIOR COURT

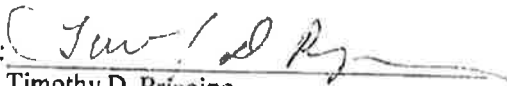
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**APPROVED AS TO FORM:**

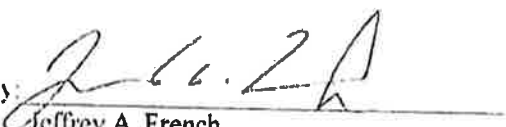
**BLACKMAR, PRINCIPE & SCHMELTER**  
A Professional Corporation

Dated: 3/8/19

By:   
Timothy D. Principe  
Attorneys for Respondent  
Roger D. Williams

**GREEN, BRYANT & FRENCH, LLP**

Dated: 3/8/19

By:   
Jeffrey A. French  
Attorneys for Petitioner  
The Grande South At Santa Fe Place  
Homeowners Association