

Stover
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IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PA
CIVIL ACTION – LAW AND EQUITY

THE SINGLE FAMILY HOMES AT
THE VILLAGE AT PENN STATE
HOMEOWNERS SUB
ASSOCIATION, a/k/a TRADITION
POINT HOMEOWNERS
ASSOCIATION,

Plaintiff,

vs.

PINNACLE DEVELOPMENT, LLC.,
S&A HOMES, INC., and THE
VILLAGE AT PENN STATE
MASTER ASSOCIATION,

Defendants.

No. 2017-797

FILED FOR RECORD
2022 FEB 23 PM 3:44
J. CLAY S. FINION
CLERK OF COURT
CENTRE COUNTY, PA

ORDER

AND NOW, this 20th day of February, 2022, in consideration of the pleadings filed in this matter and the stipulation of the parties, it is the order of this court as follows:

1. Defendant Pinnacle Development, LLC. and Defendant S&A Homes, Inc., shall pay to the Plaintiff the combined sum of \$30,000.00.
2. Defendant the Village at Penn State Master Association shall pay to the Plaintiff the sum of \$20,000.00.
3. The Declaration of Planned Community for the Single Family Homes at the Village at Penn State, recorded at Centre County Record Book 1596, Page

500, as amended, (hereinafter "Declaration") shall be further amended by the Plaintiff in order to make certain identified walls within the Tradition Point Planned Unit Development to be considered Limited Controlled Facilities that shall be monitored, maintained and repaired by the Plaintiff, said Amendment to be in the form attached to this Order as Exhibit "A".

4. The Plats and Plans of the Tradition Point Planned Unit Development shall be amended for the purpose of identifying the said walls that shall be Limited Controlled Facilities, said amendment to the Plats and Plans being in the form attached to this Order as Exhibit "B".

5. The Plaintiff, from and after the date of this Order, shall have sole responsibility for monitoring, maintaining and repairing the walls now to be considered Limited Controlled Facilities under this order.

6. The Defendant the Village at Penn State Master Association shall have sole responsibility for monitoring, maintaining and repairing two walls that shall be deemed Master Association Common Elements, being identified as Wall Number 26 and Wall Number 30 by the Glantz report dated November 15, 2019.

7. Neither the Plaintiff, Defendant Pinnacle Development, LLC., or Defendant S&A Homes, Inc., shall have any responsibility for monitoring, maintaining or repairing Wall Number 26 and Wall Number 30.

8. Neither Defendant Pinnacle Development, LLC or Defendant S&A Homes, Inc. shall have any responsibility for monitoring, maintaining or repairing any walls within Tradition Point from and after the date of this Order.

9. All other walls within Tradition Point (other than Wall Number 26 and those walls identified as Limited Controlled Facilities) shall be the responsibility of the owner of the property where such wall is located.

10. Defendant Pinnacle Development, LLC., Defendant S&A Homes, Inc., and Defendant The Village at Penn State Master Association shall have no responsibility for the monitoring, maintenance and repair of the walls hereinafter made controlled facilities of the Tradition Point Planned Unit Development.

11. The Plaintiff shall cause the Amendment to the Declaration to be recorded in the Office of the Centre County Recorder of Deeds.

BY THE COURT:


P. J.

NOTICE OF ENTRY OF
ORDER OR DECREE,
PURSUANT TO PA. R.C.P.
236 NOTIFICATION. THIS
DOCUMENT HAS BEEN
FILED IN THIS CASE.

PROTHONOTARY, CENTRE
COUNTY, PA.

DATE: 3/1/22

EXHIBIT "A"

AMENDMENT TO DECLARATION

AMENDMENT TO DECLARATION OF PLANNED COMMUNITY
SINGLE FAMILY HOMES AT THE VILLAGE AT PENN STATE, a/k/a TRADITION POINT
A Planned Community
Patton Township, Centre County, Pennsylvania

Pursuant to the Provisions of the Pennsylvania Uniform Planned Community Act
68 Pa.C.S. Section 5101, et seq., as amended

AMENDMENT TO DECLARATION OF PLANNED COMMUNITY

SINGLE FAMILY HOMES AT THE VILLAGE AT PENN STATE, a/k/a TRADITION POINT

This amendment is made this _____ day of _____, 2022, to the Declaration of Planned Community of Single Family Homes at the Village at Penn State, a/k/a Tradition Point, by the Single Family Homes at the Village at Penn State Homeowners Sub Association, a/k/a Tradition Point Homeowners Sub Association (hereinafter referred to as "Sub Association").

WITNESSETH

WHEREAS, pursuant to a certain Declaration of Planned Community of The Village at Penn State dated August 13, 2003 and executed by Pinnacle Development, LLC (hereinafter "Declarant") and recorded in the Office of the Recorder of Deeds of Centre County, Pennsylvania in Centre County Record Book 1596, Page 441, (hereinafter "Master Declaration"), Declarant submitted to the provisions of the Pennsylvania Uniform Planned Communities Act, 68 Pa.C.S. Section 5501, et seq., as amended (1993) (hereinafter referred to as the "Act") certain real estate, described in the Declaration, located in Patton Township, Centre County, Pennsylvania, and known as The Village at Penn State Planned Community (or The Village at Penn State Planned Unit Development); and

WHEREAS, pursuant to a certain Declaration of Planned Community of The Single Family Homes at The Village at Penn State executed by the Declarant dated August 13, 2003, and recorded in the Office of the Recorder of Deeds of Centre County, Pennsylvania in Centre

County Record Book 1596, Page 500, (hereinafter "Sub Declaration"), Declarant submitted to the provisions of the Act certain real estate, described in the Sub Declaration, located in Patton Township, Centre County, Pennsylvania, and known as the Tradition Point Sub Planned Community (or Tradition Point Sub Planned Unit Development) at The Village at Penn State; and

WHEREAS, the Declarant amended the Declaration by that certain First Amendment dated August 6, 2004, and recorded in Centre County Record Book 1742, Page 582, in which additional real estate was added to The Village at Penn State Planned Community; and

WHEREAS, the Declarant amended the Sub Declaration by that certain First Amendment dated August 6, 2004, and recorded in Centre County Record Book 1742, Page 589, in which additional real estate was added to the Tradition Point Sub Planned Community; and

WHEREAS, control of the Tradition Point Sub Association was turned over to the Tradition Point unit owners by the Declarant on or about 2009; and

WHEREAS, there exists within the Tradition Point Sub Planned Community a number of landscape and retaining walls that were built by or on behalf of the Declarant, but which are not mentioned in the Declaration nor the Sub Declaration nor shown on the recorded plats and plans of either The Village at Penn State Planned Unit Development nor the Tradition Point Sub Planned Unit Development; and

WHEREAS, a dispute has arisen among the Declarant, the Village at Penn State Master Association (hereinafter "Master Association") and the unit owners of the Tradition Point Sub Planned Community over the definition of "Common Elements", "Common Facilities", "Controlled Facilities", "Limited Common Elements" and "Limited Controlled Facility" as those

terms are defined by the Declaration and Sub Declaration, particularly as they relate to the walls, and the assignment of the responsibility for the repair and maintenance of the walls located within the Tradition Point Sub Planned Community; and

WHEREAS, in connection with that dispute a civil action was commenced by the Tradition Point Sub Association against the Declarant as well as S&A Homes, Inc and the Master Association seeking both money damages and equitable relief regarding the issue of the responsibility for the repair and maintenance of the walls within the Tradition Point Sub Planned Community; and

WHEREAS, in connection with that lawsuit the Court of Common Pleas of Centre County, Pennsylvania, by order dated February __, 2022, filed at Centre County Civil Action Docket Number 2017-797 (hereinafter "Order of Court") has directed that the Tradition Point Sub Declaration be amended in certain respects concerning the status of the walls within the Tradition Point Sub Planned Community.

NOW, THEREFORE, in accordance with the Order of Court, the Sub Declaration of Planned Community of the Single Family Homes at the Village at Penn State, a/k/a Tradition Point, as previously amended, is hereby amended as follows:

1. Definition of Limited Common Elements. The definition of "Limited Common Elements" as contained in Section 1.5 of the Tradition Point Sub Declaration is hereby amended to read as follows: "Limited Common Elements" means the Limited Common Facilities or Limited Controlled Facilities of the Tradition Point Sub Planned Unit Development as defined in this Sub Declaration.

2. **Definition of Limited Common Facility.** The definition of “Limited Common Facility” as contained in Section 1.5 of the Tradition Point Sub Declaration is hereby amended to read as follows: “Limited Common Facility” means any real estate within the Tradition Point Sub Planned Community which is owned by the Tradition Point Sub Association or leased to the Tradition Point Sub Association. The term does not include a unit of the Tradition Point Sub Planned Unit Development.
3. **Definition of Limited Controlled Facility.** The definition of “Limited Controlled Facility” contained in Section 1.5 of the Tradition Point Sub Declaration is hereby amended to read as follows: “Limited Controlled Facility” means that portion of the Controlled Facilities within the Tradition Point Sub Planned Community that are not a Limited Common Facility, but are maintained, improved, repaired, replaced, regulated, managed, insured or controlled by the Tradition Point Sub Association, and shall specifically include certain walls within the Tradition Point Sub Planned Community, regardless of whether they are located on a unit or on a Common Element, as more fully identified on the schedule attached hereto as Exhibit “A”, the maintenance, improvement, repair, replacement, regulation, management, insurance and control of which shall be the sole and exclusive responsibility of the Tradition Point Sub Association.
4. **Limited Controlled Facilities.** Section 3.8 of the Tradition Point Sub Declaration shall be amended in its entirety as follows: “Those portions of the Controlled Facilities within the Tradition Point Sub Planned Community, as defined in Section 1.5 of this Sub Declaration, as amended. The following portions of the Property are

designated as Limited Controlled Facilities of the Tradition Point Sub Planned Community:

3.8.1. Those certain walls within the Tradition Point Sub Planned Community, regardless of whether they are located on a unit or on a Common Element, as more fully identified on the schedule attached hereto as Exhibit "A";

3.8.2 Any as defined or shown on the plans now or amended.

5. Plats and Plans. The recorded plats and plans of the Sub Association are hereby amended to reflect the existence of the landscape and retaining walls located within the Sub Association as shown on that certain plan attached hereto as Exhibit "B", including those identified herein as Limited Controlled Facilities to be maintained by the Sub Association, and including two walls (#26 and #30) that shall be maintained by the Master Association, and including the remaining walls that are considered landscaping walls to be owned and maintained by the owner of the unit upon which each is located;
6. Reaffirmation. The Declaration of the Sub Association, as previously amended, is hereby reaffirmed in all respects not inconsistent with the Order of Court and the provisions of this amendment.

IN WITNESS, WHEREOF, the said The Single Family Homes at Penn State Homeowners Sub Association, a/k/a Tradition Point Homeowners Association has caused it name to be signed to these presents by its president of the Executive Board in this _____ day of _____, 2022.

THE SINGLE FAMILY HOMES AT
PENNSTATE HOMEOWNERS SUB
ASSOCIATION, a/k/a TRADITION POINT
HOMEOWNERS ASSOCIATION

By: _____
President of the Executive Board

COMMONWEALTH OF PENNSYLVANIA }
 } SS:
COUNTY OF CENTRE }

On this _____ day of _____, 2022, before me, a notary public, the undersigned officer, personally appeared Deborah Flavin. President of the Executive Board of The Single Family Homes at Penn State Homeowners Sub Association, a/k/a Tradition Point Homeowners Association, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within indenture, and acknowledged that he executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

Notary Public

EXHIBIT A

SCHEDULE OF LIMITED CONTROLLED FACILITIES WALLS

The walls within the Tradition Point Sub Development that shall be included as Limited Controlled Facilities, under the Declaration of Planned Community, as amended, and being identified with reference to the "Landscape and Retaining Wall Inventory" prepared by Brennan Glantz and attached to his report dated November 8, 2011, are as follows:

Wall Numbers:

1, 2, 3, 3a, 4, 5, 6, 7, 10, 11, 16, 18, 23, 24, 25, 27, 31, 32, 33, 35, 36, 38, 55, 56, 57, 58, 59, 60, 61, 62, 64, and 66.

Physical Location:

The physical location of the identified walls is depicted on the attached map.

EXHIBIT B

AMENDED PLATS AND PLANS

