

Jerry Farish

From: "Jerry Farish" <jwfarish@hotmail.com>
Date: Thursday, February 25, 2016 11:08 AM
To: "Farish Jerry" <jwfarish@hotmail.com>
Attach: Waiver of Process & Joinder.PDF; Complaint filed for name change.PDF
Subject: Anatole Bay - name change

Homeowners,

As you know the HOA has been working on formally changing our name from Anatole Bay Townhome Condominiums to Anatole Bay Townhomes. The purpose for this has been explained previously but in short, the board of directors believes that future townhome purchasers will be able to obtain better financing terms if the word "condominium" is not part of our legal and recorded name. The tax assessor has already confirmed that our units are townhomes and not condominiums.

This will offer a financial benefit to each homeowner when it comes time to sell or refinance your unit.

I have attached the relevant portion (I excluded 15 pages of names of homeowners and lienholders & and the exhibits – which are our bylaws) of the complaint that our attorney has filed with the court as well as the joinder that requires each homeowner's notarized signature. Each homeowner, lien holder and any other interested party including the city of Biloxi and Harrison county will need to be notified of our request for consent to this action. By signing and returning this waiver of process and joinder you relieve our attorney of the need to have a process server notify you. As we are paying for this legal process, having a process server notify you would get very expensive, so please review the attached material and return the signed and notarized form to the board at:

Jerry Farish, Manager
Anatole Bay HOA
495 Popps Ferry Rd., Manager's Box
Biloxi, MS 39531

If you are local you can have the form notarized at Schwartz Jordan and Orgler located at 2355 Pass Rd, Biloxi at no charge. In addition if you are planning to attend the special and annual meetings at the clubhouse this Saturday 2/27/16 I will have a notary public available at the meeting at 2:30. Our special meeting is set to begin at 1:00 with the annual meeting to follow immediately afterwards.

If you are not local and are not planning to be at the meetings you must have the form notarized (you must sign it in the notary's presence) in your location and return to the board at the address above. **Those homeowners who do not respond will have to be served by a process server at the HOA expense.**

Thanks,
Jerry Farish, Manager
Anatole Bay HOA
495 Popps Ferry Rd., Manager's Box
Biloxi, MS 39531
228-388-9010
jwfarish@hotmail.com

**AND ANY AND ALL OTHER PERSONS
WITH AN INTEREST IN THE PROPERTY DESCRIBED
IN THE SUBJECT COMPLAINT**

**PETITION TO AMEND/ALTER PLAT
AND DECLARATION OF RESTRICTIONS**

COMES NOW, the Plaintiff, ANATOLE BAY HOMEOWNERS' ASSOCIATION, by and through undersigned counsel, pursuant to Mississippi Code Section 19- 27-31, and general provisions of the law, files this Petition to Amend/Alter Plat and Declaration of Restrictions, and would show unto the Court the following:

1. The Plaintiff, Anatole Bay Homeowners' Association ("Anatole," or, "Plaintiff") is Mississippi Non Profit Corporation in good standing with its principal place of business being in the Second Judicial District of Harrison County, Mississippi.
2. The Plaintiff is the homeowners association for the Anatole Bay Townhome Condominium development ("Development") located in Biloxi, Mississippi, which is described on the attached Exhibit "A" (the "subject property").
3. The Defendants who are potentially affected or directly interested in the proceedings, are as follows:
 1. The City of Biloxi, a political subdivision of the State of Mississippi which may be served with process at 140 Lameuse Street, 39530, in any manner consistent with Rule 4 of the Mississippi Rules of Civil Procedure.
 2. Harrison County, a political subdivision of the State of Mississippi which may be reached for service of process upon the President of the Harrison County Board of Supervisors at his usual mailing address or in any other manner as set forth in Rule

4 of the Mississippi Rules of Civil Procedure.

3. John Blakeney, owner of Unit 1, Phase 1, is a resident of Harrison County, Mississippi, and may be served with process at 2508 Bay Vista Drive, Biloxi, MS 39531, or in any manner consistent with Rule 4 of the Mississippi Rules of Civil Procedure.
4. Vinh Ngo, owner of Unit 2, Phase 1, a resident of California, who may be served at 14362 Bushard Street, #101, Westminister, California 92683, or in any manner consistent with Rule 4 of the Mississippi Rules of Civil Procedure.
5. Regions Bank, holder of Deed of Trust to Unit 2, Phase 1, and Unit 55, Phase 12, is a foreign corporation registered to do business in Mississippi, who may be served with process by their registered agent, CSC of Rankin County, Inc., at Mirror Lake Plaza, 2829 Lakeland Drive, Suite 1502, Flowood, MS 39232, or in any manner consistent with Rule 4 of the Mississippi Rules of Civil Procedure.
6. Towd Point Master Funding Trust, assignee of a Deed of Trust to Unit 2, Phase 1, who may be served at 875 Third Avenue, 6th Floor, New York, NY 10022, or in any manner consistent with Rule 4 of the Mississippi Rules of Civil Procedure.
7. Gregory L. Williams, owner of Unit 3, Phase 1, Unit 7, Phase 2, Unit 19, Phase 5, Unit 22, Phase 5, Unit 23, Phase 6, Unit 28, Phase 7, Unit 29, Phase 7, Unit 30, Phase 7, Unit 31, Phase 7, Unit 32, Phase 7, Unit 33, Phase 8, Unit 34, Phase 8, Unit 35, Phase 8, Unit 37, Phase 9, Unit 40, Phase 9, Unit 41, Phase 9, Unit 43, Phase 10, Unit 44, Phase 10, Unit 47, Phase 11, Unit 48, Phase 11, Unit 49, Phase 11, Unit 50, Phase 11, Unit 51, Phase 11, Unit 54, Phase 12, Unit 56, Phase 13, Unit 57, Phase

Pages - 5-21 continue to 4
Name all home owners &
lienholders Jr



resident of Mississippi, and may be served with process at 3402 Stratton Rd. Union, MS 39365, or in any manner consistent with the Mississippi Rules of Civil Procedure.

99. Omega Credit, Inc., a potential judgment Lien Holder over Unit 90, Phase 19, is a Mississippi corporation, which may be served with process through its registered agent, John H. Henley, 1910 Lakeland Drive, Jackson, MS 39216, or in any manner consistent with the Mississippi Rules of Civil Procedure.

100. Southtrust Bank of South Mississippi, assignee of Deed of Trust to Unit 90, Phase 19, is a Mississippi corporation, which may be served with process at 854 West Howard Avenue Biloxi, MS 39533, or in any manner consistent with the Mississippi Rules of Civil Procedure.

101. Any and all other persons with an interest in the portion of the Plat and Governing Documents being altered and amended, whose names, post office boxes and addresses are unknown after a diligent search and inquiry and who may be served with process by publication.

4. That this Court has subject matter jurisdiction over this matter pursuant to Mississippi Code Section 19-27-31. Further, it has jurisdiction over the parties, who are owners of the subject property located in the Second Judicial District of Harrison County, Mississippi, and venue is proper in this Court.

5. The original plat of Anatole Bay Townhome Condominiums was recorded in the Office of the Chancery Clerk of Harrison County, Mississippi, Second Judicial District, in Plat Book 9 at Page 17. Portions of said Development were Re-platted in Plat Book 10 at Page 22 (Phases 4,

17 and 19), and in Plat Book 11 at Page 7 (Phases 8, 9, 10, 12 and 18). A reduced size copy of the first page of each such plats is attached hereto and marked collectively as Exhibit "B". A Declaration of Condominium of Anatole Bay Townhome Condominiums was recorded in Deed Book 129 at Pages 174-218 ("Declaration"), a copy of which is attached hereto and marked as Exhibit "C". An amendment to the Declaration was filed on or about February 1, 1993, in Deed Book 266 at Page 21 ("Amendment"). A copy of said amendment is attached hereto and marked as Exhibit "D". Articles of Incorporation ("Articles") for Anatole were also filed in Deed Book 129 at Page 169, and were subsequently amended a copy of which is attached hereto as Exhibit "E". Certificates of Incremental Development Amendment ("Certificates") were filed in Deed Book 166 at Page 481, Book 166 at page 485 and Book 166 at Page 489, copies of which are attached hereto collectively as Exhibit "F". The Declaration, Amendment, Articles and Certificates are collectively referred to herein as the "Governing Documents".

6. That the name on said Plats and Governing Documents for the Development reference "Anatole Bay Townhome Condominiums".

7. The Plaintiff proposes to amend the name of the Development on said Plats and Governing Documents from "Anatole Bay Townhome Condominiums" to "Anatole Bay Townhomes". To do so, Plaintiff requests that the Plats and Governing Documents be amended and/or altered to correct the same as set forth herein.

8. That all known lien holders of said property have been named as Defendants to this Petition.

9. That all known owners of said property have been named as Defendants to this Petition, in accordance with Mississippi Code Section 17-1-23(4) and Mississippi Code Section 89-

9-9.

10. The subject property is subject to certain easements and covenants. However, this petition and the proposed amendment of the Plats and Governing Documents shall have no effect on said easements and covenants, as the relief requested is merely the change of the existing name of the development.

11. Pursuant to Mississippi Code Section 19-27-31, and other provisions of Mississippi law, the Plaintiff is requesting this Court to order the name of the aforementioned Plats and Governing Documents be amended and/or altered from "Anatole Bay Townhome Condominiums" to "Anatole Bay Townhomes".

WHEREFORE, PREMISE CONSIDERED, the Plaintiff, Anatole, requests this Petition be filed and docketed and that process be issued to the Defendants herein according to law, commanding them to be and appear before this Honorable Court in the time and manner provided by law to answer or otherwise plead to this Petition, and after all due proceedings be had, that this Court will do the following:

(1) Enter a decree ordering that the name of the aforementioned plats and Governing Documents (including all amendments thereto) for the Development be amended and/or altered from "Anatole Bay Townhome Condominiums" to "Anatole Bay Townhomes".

(2) Grant the Plaintiff any such other relief, whether general, specific, or otherwise to which it may be entitled and to which the Court may deem appropriate.

RESPECTFULLY SUBMITTED.

ANATOLE BAY HOMEOWNERS' ASSOCIATION

BY: SCHWARTZ, ORGLER & JORDAN, PLLC

BY: _____
ROBERT T. SCHWARTZ, for the firm

STATE OF MISSISSIPPI
COUNTY OF HARRISON

Personally appeared before me, the undersigned authority in and for the said county and state, on this January 13, 2016, within my jurisdiction, the within Robert T. Schwartz, an attorney with the lawfirm of Schwartz, Orgler & Jordan, PLLC, counsel for the Plaintiff, who being first duly sworn and advised of the penalties of perjury, acknowledged that he executed, signed and delivered the above and foregoing instrument, and that the matters and facts set forth therein are true and correct to the best of his knowledge. This acknowledgment shall serve as a sworn verification of the complaint as required by the Mississippi Rules of Civil Procedure.

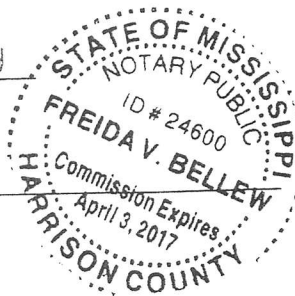
ANATOLE BAY HOMEOWNERS' ASSOCIATION

BY: SCHWARTZ, ORGLER & JORDAN, PLLC

BY: _____
ROBERT T. SCHWARTZ, for the firm

Freida V. Bellew
NOTARY PUBLIC

My Commission Expires: _____



Robert T. Schwartz, Esq.
Schwartz, Orgler & Jordan, PLLC
2335-B Pass Road
Biloxi, MS 39531
(228) 388-7441
MSB # 10482
robert@sojlaw.net

IN THE CHANCERY COURT OF HARRISON COUNTY, MISSISSIPPI
SECOND JUDICIAL DISTRICT

ANATOLE BAY HOMEOWNERS' ASSOCIATION

PLAINTIFF

VS.

CAUSE NO.16-34(1)

THE CITY OF BILOXI, MISSISSIPPI, ETAL.

DEFENDANTS

WAIVER OF PROCESS AND JOINDER

The undersigned owner(s) of Unit _____, Phase _____, of Anatole Bay Townhome Condominiums, do(es) hereby:

(1) acknowledge receipt of a copy of the Complaint to Amend/Alter Plat and Declaration of Restrictions filed by Anatole Bay Homeowners' Association, in the above styled and numbered cause;

(2) waive the necessity of service of process in this action;

(3) enter his/her/its appearance in this matter the same as if he/she/it had been served with the Complaint more than thirty (30) days ago,

(4) join with the Plaintiff in the execution and filing of the Complaint, and the prayer for relief contained therein,

(5) consent to a hearing on the Complaint at any time, without any further notice to the undersigned;

(6) waive the necessity that said Petition remain on file for thirty (30) days before action is taken on the same; and

(7) acknowledge that the party(ies) executing this instrument are adults over the age of twenty one (21) years, and of sound and disposing mind.

WITNESS MY/OUR SIGNATURE(S) this _____ day of _____, 2016.

Name:

Name:

STATE OF _____
COUNTY OF _____

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, _____ who being by me first duly sworn, stated on his/her oath that he executed the above and foregoing Waiver of Process and Joinder and that the matters and things contained therein are true and correct as therein stated.

SWORN TO AND SUBSCRIBED BEFORE ME, this _____ day of _____,
2016.

NOTARY PUBLIC

My Commission Expires:

STATE OF _____
COUNTY OF _____

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, _____ who being by me first duly sworn, stated on his/her oath that he executed the above and foregoing Waiver of Process and Joinder and that the matters and things contained therein are true and correct as therein stated.

SWORN TO AND SUBSCRIBED BEFORE ME, this _____ day of _____,
2016.

NOTARY PUBLIC

My Commission Expires: