

**Doc Type: AG**

**JOINT USE AGREEMENT**

**BETWEEN**

CFN 2004413068 12-30-2004 05:26 pm  
OR Book/Page: **5404 / 1817**

**HIDDEN GROVE CONDOMINIUM ASSOCIATION, INC.**

**"HIDDEN GROVE"**

**AND**

**T.O.F. DEVELOPMENT CORP.**

**"TOF"**

**Scott Ellis**

Clerk Of Courts, Brevard County

#Pgs: 5	#Names: 2	
Trust: 3.00	Rec: 41.00	Serv: 0.00
Doc: 0.00		Excise: 0.00
Mtg: 0.00		Int Tax: 0.00

This Joint Use Agreement is made and entered into on this 9<sup>th</sup> day of December, 2004, by and between HIDDEN GROVE CONDOMINIUM ASSOCIATION, INC., a Florida not for profit corporation (hereinafter, "Hidden Grove") and T.O.F. DEVELOPMENT CORP., a Florida corporation (hereinafter, "TOF").

**WHEREAS**, TOF is the owner of the real property described in Exhibit "A" attached hereto ("Property"); and,

**WHEREAS**, TOF plans and intends to develop a twenty four unit residential condominium project on the Property; and,

**WHEREAS**, as a common amenity to the intended condominium development, TOF plans to build a pool and related improvements on a portion of the Property ("Pool" or "Pool Area") to be specifically described in detail in the Declaration of Condominium to be subsequently filed with the State of Florida, Division of Land Sales, Bureau of Condominiums ("Declaration"), subject to final State of Florida approval; and,

**WHEREAS**, the individual unit owners of Hidden Grove want the right to use the Pool for their own enjoyment or the enjoyment of their respective tenants, and TOF agrees to permit such use, subject to the terms and conditions hereof.

**FOR AND IN CONSIDERATION** of the covenants and agreements hereinafter set forth to be kept and performed by the parties hereto, it is agreed as follows:

1. Property:

1.1 Description. TOF will permit the members of Hidden Grove their respective tenants, guests, and invitees, to utilize the Pool Area. TOF will, at its expense, construct the Pool and related improvements on the Property in a manner consistent with the Declaration as finally approved.

2. Term:

2.1 Term. The term of this Agreement shall be perpetual.

3. Shared Costs and Expenses:

3.1 Shared Costs and Expenses. There are sixteen (16) built units in Hidden Grove and TOF intends to construct twenty five (25) units on the Property. After TOF pays to build the Pool and related improvements, the reasonable expenses attributable to the Pool maintenance, liability (to be not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate) and hazard insurance, replacement reserves, and all other similar expenses shall be shared pro-rata between these forty (40) unit owners. Hidden Grove shall collect these expenses from its members and pay same no less than quarterly to the condominium association described in the Declaration.

4. Use:

4.1 Use. The Pool and Pool Area shall be used for recreational purposes only. Guests of the unit owners and tenants entitled to use same must be accompanied by the unit owner or tenant while using the Pool. Hidden Grove and TOF may adopt such rules and regulations applicable to the operation and use of the Pool and Pool Area as reasonably required to ensure the use and quiet enjoyment of the Property and to ensure that the Pool and Pool Area are operated and maintained in a quality manner. The rules and regulations which may be adopted shall include but not be limited to a prohibition against loud or obtrusive noises.

4.2 Access to the Pool Area. The members of Hidden Grove, their respective tenants, guests, and invitees shall have the right of ingress and egress, both pedestrian and vehicular, across the Property for purposes of gaining access to the Pool Area. Vehicle parking shall be limited to designated spaces only.

4.3 Uses Prohibited.

(a) Persons entitled to use the Pool or Pool Area shall not bring or keep anything thereon which will in any way increase the existing rate or affect any fire or other insurance upon the Pool Area or cause a cancellation of any insurance policy covering said Pool Area.

(b) Persons entitled to use the Pool or Pool Area shall not use same for any unlawful or objectionable purpose, nor maintain or permit a nuisance in on or about the Pool.

(c) Persons entitled to use the Pool or Pool Area shall not use same or permit anything to be done on or about the Pool Area which will in any way conflict with any law, statute, ordinance or governmental rule or regulation or requirement of duly constituted public authorities now in force or which may hereafter be enacted or promulgated.

5. Construction, Maintenance and Repairs; Alteration and Additions:

5.1 Construction, Maintenance and Repairs.

(a) TOF will at its sole costs and expense construct the Pool and Pool Area in compliance with the Declaration. Other than warranty repairs, TOF will not have any further obligations for the maintenance and/or repair of the Pool and Pool Area. All subsequent repairs, other than warranty repairs and service, shall be paid for as provided in section 3.1.

5.2 Alterations and Additions.

(a) All material alterations and additions must be agreed upon by a majority of the unit owners entitled to utilize the Pool and Pool Area.

6. Miscellaneous:

6.1 Severability. If any term or provision of this Agreement shall, to any extent be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

6.2 Costs of Suit. The losing party in any action or litigation brought hereunder shall pay the prevailing party a reasonable sum for attorneys fees and court costs.

6.3 Binding Effect; Choice of Law. The parties hereto agree that all provisions hereof are to be construed as both covenants and conditions as though the words importing such covenants and conditions were used in each separate paragraph hereof. All of the provisions hereof shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. This Agreement shall be governed by the laws of the State of Florida and Brevard County.

In witness whereof, the parties hereto have caused this Agreement to be duly executed as of the date first written above, by their respective officers or parties thereunto duly authorized.

Signed, Sealed And Delivered  
In The Presence Of:

WITNESSES:

HIDDEN GROVE CONDOMINIUM ASSOCIATION, INC.

Dorinda M. Charlton  
Dorinda M. Charlton  
Nancy Haines  
Nancy Haines

By: [Signature]  
Its: Pres. / SEC / TREAS

STATE OF FLORIDA  
COUNTY OF BREVARD


The foregoing instrument was acknowledged before me this 9 day of December, 2004, by Lohi Hanks, as Pres./Sec/Treas of HIDDEN GROVE CONDOMINIUM ASSOCIATION, INC.

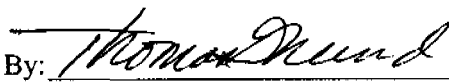
[Signature]  
Notary Public

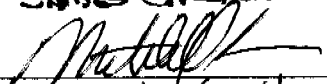
Personally Known  OR Produced Identification



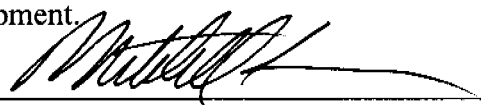
T.O.F. DEVELOPMENT CORP.

  
\_\_\_\_\_  
JAMES CAPRIN

By:   
\_\_\_\_\_  
Tom Freund, President

  
\_\_\_\_\_  
Mitchell S. Goldman  
STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 30 day of December, 2004, by Tom Freund, as President of T.O.F. Development.

  
\_\_\_\_\_  
Notary Public

Personally Known  OR Produced Identification

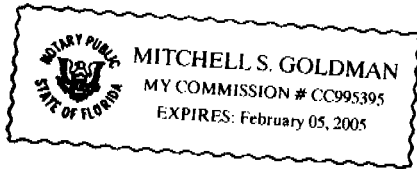


EXHIBIT "A"

A parcel of land lying in the Northwest 1/4 of the Southwest 1/4 of Section 14, Township 24 South, Range 36 East, Brevard County, Florida, being more particularly described as follows:

Begin at the Southwest corner of said Northwest 1/4 of the Southwest 1/4, and run North 00 degrees 13 minutes 36 seconds West, along the West line of Section 14, a distance of 247.50 feet; thence North 89 degrees 40 minutes 17 seconds East, parallel with the South line of said Northwest 1/4 of the Southwest 1/4, a distance of 230.00 feet; thence South 00 degrees 19 minutes 43 seconds East perpendicular to said South line, a distance of 137.50 feet; thence North 89 degrees 40 minutes 17 seconds East, parallel with said South line, a distance of 269.76 feet; thence South 00 degrees 13 minutes 36 seconds East, parallel with said West line of Section 14, a distance of 110.00 feet to a point on said South line; thence South 89 degrees 40 minutes 17 seconds West, along said South line, a distance of 500.00 feet to the Point of Beginning.