

AFTER RECORDING RETURN TO:

David J. Kiersky, Trustee
2211 Oregon Avenue
Anacortes, WA 98221



200604050029

Skagit County Auditor

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DECLARATION OF RESTRICTIVE COVENANT

Grantor(s): Aialik Bay Partners

Grantee(s): David J. Kiersky Living Trust, dated February 9, 2001

Short Legal Description: BLK 281 CITY ANACORTES
[Complete legal description on p. 5]

Assessor's Property Tax
Parcel/Account Number(s): 3780-009-011-0600 P122685

Reference Number(s) of
Documents Assigned
or Released:

FIRST AMERICAN TITLE CO.

A 87645

Recitals

A. Aialik Bay Partners, a partnership, "Grantor") is the owner of certain real property located in Skagit County, Washington, and legally described on Exhibit "A", attached hereto and incorporated by this reference (the "Property").

B. Grantor and the David J. Kiersky Living Trust, dated February 9, 2001 ("Grantee") are parties to that Vacant Land Purchase and Sale Agreement, dated January 21, 2006, as amended (the "Agreement"), whereby Grantee has agreed to purchase from Grantor, and Grantor has agreed to purchase from Grantee, that real property described on Exhibit "B", attached hereto and incorporated by this reference ("Lot D").

C. In connection with the transaction described herein, Grantor is conveying to Grantee, for the benefit of Lot D, a beachfront access easement located across a portion of the Property.

D. As a material inducement to Grantee's agreement to purchase Lot D, Grantor has agreed to covenant, on behalf of Grantor and all future owners of the Property, that the owner

of the Property shall maintain, in perpetuity, the easement upon the Property. Now, therefore, for and in good and valuable consideration, receipt of which is hereby acknowledged and received, the parties agree as follows:

Restrictive Covenant

Grantor hereby covenants and agrees, on behalf of Grantor and all future owners of the Property, that the owner of the Property shall at all times maintain the beachfront access easement located upon the Property. All such maintenance shall be at the owner's sole cost and expense.

This covenant is for the benefit of Lot D, shall run with the land, in perpetuity, and shall be binding on Grantor's successors, heirs and assigns.

IN WITNESS WHEREOF the parties have executed this Declaration this 30 day of March, 2006.

GRANTOR:

Aialik Bay Partners

By: Robert Ballou
Its: Partner

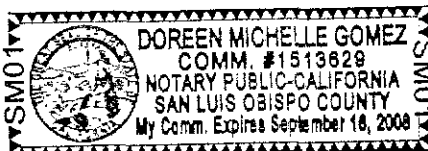
GRANTEE:

David J. Kiersky Living Trust

By: David J. Kiersky
Its: Trustee

CALIFORNIA
STATE OF ~~WASHINGTON~~ CA
COUNTY OF SAN LUIS OBISPO) ss

I certify that I know or have satisfactory evidence that ROBERT BALLOU is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument as PARTNER on behalf of Aialik Bay Partners pursuant to the provisions of the general partnership agreement of said general partnership, and acknowledged said instrument to be the free and voluntary act of said general partnership for the uses and purposes mentioned in said instrument.



DATED: MARCH 30, 2006



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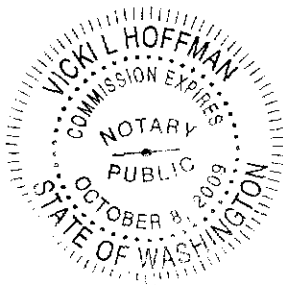
Skagit County Auditor

NAME: DOREEN MICHELLE GOMEZ
(Print Name)

Notary Public in and for the State of ~~Washington~~ CALIFORNIA
Commission Expires: SEPTEMBER 16, 2008

STATE OF WASHINGTON)
) ss
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that David J. Kiersky is the person who appeared before me, and said person on oath stated that he was authorized to execute the instrument and acknowledged it as the Trustee of David J. Kiersky Living Trust to be the free and voluntary act of said party for the uses and purposes mentioned in the instrument.



DATED: 4-3-06

Vicki L Hoffman

NAME: VICKI L. HOFFMAN
(Print Name)

Notary Public in and for the State of Washington
Commission Expires: 10-8-09



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EXHIBIT "A"

Lot B

All that part of Block 281 "City of Anacortes", recorded in Volume 2 of Plats, page 4, records of Skagit County, Washington which lies westward of a line parallel to and 131.3 feet eastward of the east line of Avenue "V", except the west 65 feet thereof along with the vacated Second Street, except the north 50 feet of the west 65 feet, and adjoining tidelands in Tract No. 10 of Plate No. 9, Anacortes Tidelands in Section 18, Township 35 North, Range 2 East, W.M.; along with an exclusive access and utilities easement on the south 30 feet of the west 65 feet of vacated Second Street to benefit Lot A.



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EXHIBIT "B"
Legal description

The land referred to in this report/policy is situated in the State of Washington, County of Skagit, and is described as follows:

All that part of Lots 11 through 15, Block 280, "MAP OF THE CITY OF ANACORTES, SKAGIT COUNTY, WASHINGTON", according to the plat thereof recorded in Volume 2 of Plats, page 4, records of Skagit County, Washington, and all that part of the South $\frac{1}{2}$ of the vacated alley in said Block, which lies Westward of a line parallel to and 131.3 feet Eastward of the East line of Avenue "V". - aka Lot D of a Survey recorded under Auditor's File No. 200504060099.



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