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Fee Amt: \$23.00 Page 1 of 4  
Currituck County, NC  
Charlene Y Dowdy Register of Deeds

54

BK 1112 PG 326-329

Prepared by and Return to:  
E. Crouse Gray, Jr., Attorney at Law  
GRAY & LLOYD, L.L.P.  
3120 North Croatan Highway, Ste. 101  
Kill Devil Hills, North Carolina 27948  
My File No. 9101-103

**THIRD AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
KILMARLIC RESIDENTIAL COMMUNITY ASSOCIATION**

**THIS THIRD AMENDMENT** to Declaration of Protective Covenants, Conditions, Restrictions and Easements, Kilmarlic Residential Community, made this the 5<sup>th</sup> day of JANUARY, 20 10, by KILMARLIC RESIDENTIAL, LLC, a Virginia limited liability company, hereinafter referred to as ("Developer") and SEAGRASS, LLC, a North Carolina limited liability company, hereinafter referred to as ("Seagrass").

**WITNESSETH:**

**WHEREAS**, Developer and Fortune Bay Golf Club, LLC, a Virginia limited liability company ("Fortune Bay") heretofore executed and recorded a Declaration of Protective Covenants, Conditions, Restrictions and Easements, as recorded in Deed Book 658, Page 90, Currituck County Public Registry, for the residential community known as "Kilmarlic Residential Community" ; and

**WHEREAS**, Fortune Bay, conveyed the real property constituting the Kilmarlic Residential Community to Developer; and

**WHEREAS**, the Declaration of Protective Covenants, Conditions, Restrictions and Easements, as recorded in Deed Book 658, Page 90, hereinafter referred to as ("Declaration"), provides in part in Section 2.02, a mechanism wherein Developer may add additional properties to the benefits, rights, duties and obligations of the Declaration; and

**WHEREAS**, the Declaration in Section 3.07, authorizes the Developer to assign its membership in the Kilmarlic Residential Community Association to any individual, trust, estate, partnership, corporation, limited liability company, a business trust or other entity; and

**WHEREAS**, Developer, pursuant to Second Amendment to Declaration of Protective Covenants, Conditions, Restrictions and Easements, Kilmarlic Residential Community Association

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as recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, Currituck County Public Registry, assigned its rights, duties and obligations pursuant to the Declaration to Seagrass; and

**WHEREAS**, Seagrass now desires to assign rights, duties and obligations pursuant to the Declaration back to Developer.

**NOW, THEREFORE**, Developer and Seagrass, for themselves, their successors and assigns, hereby amend the Declaration and assign certain rights as follows:

1. Seagrass does hereby assign all its right, title and interest as Developer to Kilmarlic Residential, LLC. Kilmarlic Residential, LLC hereby accepts such assignment and agrees that effective as of the date of recording of this document in the Currituck County Registry of Deeds, to be bound by all of the terms, conditions, rights, duties and obligations and benefits of Developer as set forth in the Declaration.
2. Seagrass does hereby assign its membership interest in the Kilmarlic Residential Community Association to Kilmarlic Residential, LLC, including the right to vote the Class B Membership. This assignment of rights as Class B Membership, including the right to vote such Class B Membership, shall be effective for each and every lot who's title is still retained by Developer or Seagrass as of the date this Third Amendment to Declaration is recorded in the Currituck County Registry of Deeds until the Class B Membership for such lot shall be terminated pursuant to Section 3.02.1 of the Declaration.

**IN WITNESS WHEREOF**, Kilmarlic Residential, LLC and Seagrass, LLC, have executed this Third Amendment to Declaration of Protective Covenants, Conditions, Restrictions and Easements the day and year first above written.

**KILMARLIC RESIDENTIAL, LLC**

By: [Signature] (SEAL)  
A. Russell Kirk, Manager

By: [Signature] (SEAL)  
Alfred E. Abjouness, Manager

**SEAGRASS, LLC**

By: [Signature] (SEAL)  
Bryan Sullivan, Manager

By: [Signature] (SEAL)  
Jim Geraghty, Manager

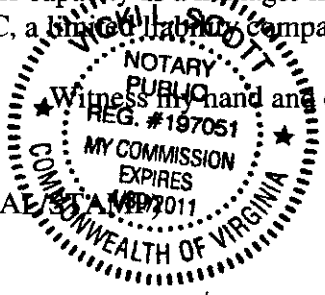
By: [Signature] (SEAL)  
Lorimer J. White, Manager

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STATE OF Virginia  
CITY/COUNTY OF Virginia Beach

I,  Vicki L. Scott , a Notary Public, hereby certify that A. Russell Kirk personally came before me this day and acknowledged the execution of the foregoing instrument, all in his capacity as a manager in, and in the name and for and on behalf of, Kilmarlic Residential, LLC, a limited liability company organized under the laws of the State of Virginia.

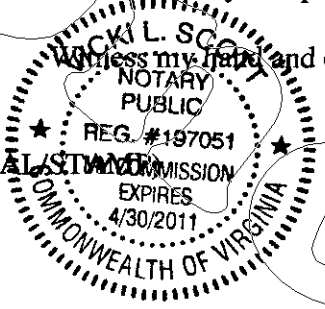
Witness my hand and official seal this the  6<sup>th</sup>  day of  January , 2010.  
 Vicki L. Scott   
Notary Public  
My Commission Expires:  4/30/2011



STATE OF Virginia  
CITY/COUNTY OF Virginia Beach

I,  Vicki L. Scott , a Notary Public, hereby certify that Alfred E. Abiouness personally came before me this day and acknowledged the execution of the foregoing instrument, all in his capacity as a manager in, and in the name and for and on behalf of, Kilmarlic Residential, LLC, a limited liability company organized under the laws of the State of Virginia.

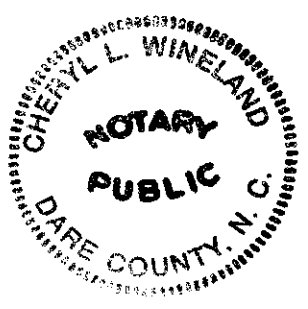
Witness my hand and official seal this the  6<sup>th</sup>  day of  January , 2010.  
 Vicki L. Scott   
Notary Public  
My Commission Expires:  4/30/2011



STATE OF North Carolina  
CITY/COUNTY OF Dare

I,  Cheryl L. Wineland , a Notary Public, hereby certify that Bryan Sullivan personally came before me this day and acknowledged the execution of the foregoing instrument, all in his capacity as a manager in, and in the name and for and on behalf of, Seagrass, LLC, a limited liability company organized under the laws of the State of North Carolina.

Witness my hand and official seal this the  5<sup>th</sup>  day of  January , 2010.  
 Cheryl L. Wineland   
Notary Public  
My Commission Expires:  9-23-2014



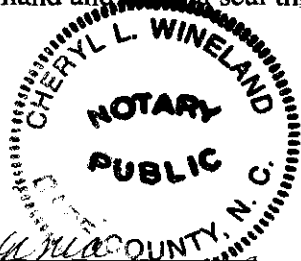
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STATE OF North Carolina  
CITY/COUNTY OF Dare

I, Cheryl L. Wineland, a Notary Public, hereby certify that Jim Geraghty personally came before me this day and acknowledged the execution of the foregoing instrument, all in his capacity as a manager in, and in the name and for and on behalf of, Seagrass, LLC, a limited liability company organized under the laws of the State of North Carolina.

Witness my hand and official seal this the 5<sup>th</sup> day of January, 2010.

(SEAL/STAMP)



Cheryl L. Wineland  
Notary Public  
My Commission Expires: 9-23-2014

STATE OF Virginia COUNTY OF Virginia Beach  
CITY/COUNTY OF Virginia Beach

I, Hicki L. Scott, a Notary Public, hereby certify that Lorimer J. White, personally came before me this day and acknowledged the execution of the foregoing instrument, all in his capacity as a manager in, and in the name and for and on behalf of, Seagrass, LLC, a limited liability company organized under the laws of the State of North Carolina.

Witness my hand and official seal this the 6<sup>th</sup> day of January, 2010.

(SEAL/STAMP)



Hicki L. Scott  
Notary Public  
My Commission Expires: 4/30/2011

N:\WORD\clients\KILMARLIC RESIDENTIAL\9101-104 (Amend. Rest. Cov., Add Phase II)\3rd Amendment to Declaration.wpd

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