

**FIFTH AMENDMENT TO DECLARATION OF COVENANTS AND  
RESTRICTIONS  
OCEANS WEST PLANNED UNIT DEVELOPMENT  
AND  
NOTICE OF PROVISIONS OF  
OCEANS WEST HOMEOWNERS ASSOCIATION, INC.**

THIS AMENDMENT TO THE DECLARATION OF COVENANTS AND RESTRICTIONS is made this 9<sup>th</sup> day of NOVEMBER, 2004, by the Oceans West Homeowners Association, Inc. (hereinafter referred to as "OWHOA").

WHEREAS, the Declaration of Covenants and Restrictions, Oceans West Planned Unit Development and Notice of Provisions of Oceans West Homeowners Association, Inc., were recorded on November 17, 1981, in Book 2312, Pages 461 through 506, Official Public Records of Volusia County, Florida, and Amendment thereto on May 25, 1983, in Book 2453, Pages 920 through 928, Official Public Records of Volusia County, Florida, and Second Amendment thereto on July 11, 1983, in Book 2467, Pages 1553 through 1559, Official Public Records of Volusia County, Florida and Third Amendment thereto on May 21, 1984, in Book 2567, Pages 755 through 766, Official Public Records of Volusia County, Florida and Fourth Amendment thereto on January 17, 1986, in Book 2775, Pages 860 through 884, and

WHEREAS, the members of OWHO seek to amend Section 6.5 of the Declaration of Covenants and Restrictions to allow the Association to continue to make the golf facilities available to non-owners of living units for a fee, to help defray the cost of maintaining same.

WHEREAS, the Board of Directors submitted a proposal to the membership for a vote on whether the Association should amend its documents to allow the golf course to remain a semi-private course which will continue to permit outside play.

WHEREAS, the ascent of seventy-five percent, or 743, of the 990 authorized living units subject to lien rights is required to amend the provisions of the Declaration as they deem necessary or desirable, and 755 votes in favor has been tallied by a vote counting committee of unit owners to pass the amendment as required by Section 5.2 of the Declaration.

NOW, THEREFORE, the Declaration of Covenants and Restrictions, Oceans West Planned Unit Development and Notice of Provisions of Oceans West Homeowners Association, Inc., as previously amended, is further amended and restated as follows:

Section 6.5. One of the principal features of the common areas is a golf course which has been constructed by the Developer and is to be maintained by the Association. The golf course is built for the use and enjoyment of the occupants of all of the authorized 990 living units as described herein, whether inside or outside the Planned Unit Development. The owners of the 990 living units shall automatically be members of the golf facility; however, in the event any assessment on their unit or units due Oceans West Homeowner's Association are not paid and current, such membership is automatically suspended until all assessments are current. Such membership may, at the option of the owner, be assigned to the tenant or lessee of the unit as part of the tenancy or such membership may be retained by the owner. In the event the membership is assigned to a tenant, the owner shall notify the manager of the golf facility in writing of the assignment, the name of the tenant and the duration of the tenancy. The owner and tenant may not both be members. The Developer reserves the right to make memberships for the use of the golf facilities available to non-owners of living units for a fee to help defray the cost of maintaining the golf facilities, ~~so long as the total unit owner members and non-unit owner members does not exceed 990.~~ THE ASSOCIATION WILL CONTINUE TO MAKE MEMBERSHIPS FOR THE USE OF THE GOLF FACILITIES AVAILABLE TO NON-OWNERS OF LIVING UNITS FOR A FEE TO HELP DEFRAY THE COST OF MAINTAINING THE GOLF FACILITIES. ~~As the number of living units which are subject to the lien rights of the Association and given the right to use the common areas of the Planned Unit Development, are completed, sold or occupied increases, the number of non-owner memberships will be decreased. When control of the Association is turned over to unit owners other than the Developer, the memberships for the use of the golf facilities will be limited solely to the 990 authorized living unit owners or residents.~~ Nothing contained in this Declaration shall prohibit the Board of Directors of the Association and the Developer prior to the turnover of control of the Association to the unit owners other than Developer, from requiring the unit owners to pay a greens fee or charge, the amount of which may be changed from time to time for the playing of golf, provided all greens fees or charges collected from unit owner members and non-unit owner members are used for the maintenance and operation of the golf course.

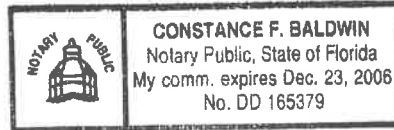
IN WITNESS WHEREOF, the President and Secretary of Oceans West Homeowners Association, Inc. have executed this Fifth Amendment to the Declaration on the day and year first above written.

STATE OF FLORIDA  
COUNTY OF VOLUSIA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared William Ferguson, well known to me to be the Secretary of Oceans West Homeowners Association, Inc., in the foregoing Fifth Amendment to Declaration of Covenants and Restrictions, and that he acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the State and County last aforesaid this 9 day of November, 2004.

Constance F Baldwin  
Notary Public  
My Commission Expires: 12 23 2006

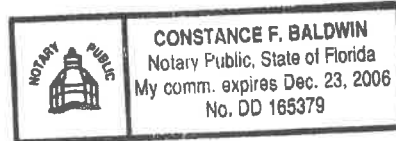


STATE OF FLORIDA  
COUNTY OF VOLUSIA

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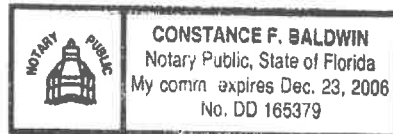


STATE OF FLORIDA  
COUNTY OF VOLUSIA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared William Farrell, well known to me to be the Acting Secretary of Oceans West Homeowners Association, Inc., in the foregoing Fifth Amendment to Declaration of Covenants and Restrictions, and that he acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the State and County last aforesaid this 9 day of November, 2004

Constance F Baldwin  
Notary Public  
My Commission Expires: 1223 2006



Signed, sealed and delivered  
in the presence of:

OCEANS WEST HOMEOWNERS  
ASSOCIATION, INC.

Constance F. Baldwin  
Witness

Kay Schwarz  
Kay Schwarz, President

Sharon P. Lee  
Witness

William Ferguson  
William Ferguson, Secretary

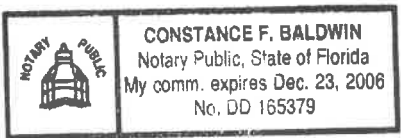
STATE OF FLORIDA  
COUNTY OF VOLUSIA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Kay Schwarz, well known to me to be the President of Oceans West Homeowners Association, Inc., in the foregoing Fifth Amendment to Declaration of Covenants and Restrictions, and that she acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the State and County last aforesaid this 9 day of November, 2004.

Constance F. Baldwin

Notary Public  
My Commission Expires: 12-23-2006



**CERTIFICATE**

THIS IS TO CERTIFY THAT: Kay Schwarz, President, William Ferguson, Secretary, and William Farrell, Acting Secretary of Oceans West Homeowners Association, Inc., being first duly sworn and upon oath state that the foregoing Fifth Amendment to the Declaration of Covenants and Restrictions of Oceans West Planned Unit Development and Notice of Provisions of Oceans West Homeowners Association, Inc. has been duly adopted by the Association and its members.

Witnesses:

OCEANS WEST HOMEOWNERS  
ASSOCIATION, INC.

Constance F. Baldwin

Kay Schwarz  
Kay Schwarz, President

Sharon A. Lee

William Ferguson  
William Ferguson, Secretary

William Farrell  
William Farrell, Acting Secretary

STATE OF FLORIDA  
COUNTY OF VOLUSIA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Kay Schwarz, well known to me to be the President of Oceans West Homeowners Association, Inc., in the foregoing Fifth Amendment to Declaration of Covenants and Restrictions, and that she acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the State and County last aforesaid this 9 day of November, 2004.

Constance F. Baldwin  
Notary Public  
My Commission Expires: 1223 2006

