

## KENAI RIVER KEYS SUBDIVISION – DECLARATION OF EASEMENTS

Recorded Easement Amendment dated June 6, 1978

Declaration of Easements Book 68, page 770 dated November 27, 1972, created easements for access to lots within the subdivision, including lots in Block 4 bordering the western branch of Chum Way Channel. The easement for lots in Block 4 applied to Lots 1 through 25, excluding Lots 4, 19 and 20 which did not border Chum Way Channel. The access actually used for Lots 10 through 26, excluding Lots 19 and 20, differed from the easement by use of a driveway on the west side of Lot 8. The driveway connected to Chinook Run Drive, a platted road in the subdivision, and was a more direct route. Use of the driveway was permissive by the owner of Lot 8.

An amendment dated June 6, 1978 and recorded in Book 125, page 923, formalized the access along the western edge of Lot 8. The amended easement was signed by the owners of Lots 1, 2, 3, 5, 6, 7 & 8, but not by other beneficiaries, namely the owners of Lots 10 through 26, excluding Lots 19 and 20. This change was for the route being used at the time, and no objection was made by other beneficiaries. Lots 1, 2, 3, 5, 6, 7 & 8 gained use of the land formerly encumbered.

In 1995, the owner of Lot 9 moved the access to run along the western side of Lot 9, allowing Lot 9 unimpeded access to the Chum Way Channel. The owner of Lot 9 constructed the new driveway and it became the access route for Lots 10 through 26, excluding Lots 19 and 20, again without objection. The owner of Lot 9 recorded the change as a license for ingress and egress in Book 467, page 371. This access route remains today and is maintained by the Property Owners Association.

The Association recognizes that a challenge could arise to the amended easement and/or the license for ingress and egress, but over the intervening 25+ years, no challenge has been raised. The Association has little interest in final resolution at this time.

A similar situation developed in Block 2 with an access easement along the east side of the eastern branch of the Chum Way Channel. Lot owners there simply blocked the portion of the easement not being used. Lot 9 of Block 2 depends on the easement for vehicle access, and the portion of easement across Lot 10 remains open for connection to Cohoe Court.

The approach used by lot owners in Block 2 simply to close the easement has been no less effective than the approach used by lot owners in Block 4 to amend the 1972 Declaration of Easements. Both efforts were driven by noise issues from 4-wheelers, and although flawed, both rely on relationships between neighbors.

The remaining two access routes established in the 1972 Declaration of Easements, for Blocks 3 and 5, are operating as intended and are maintained by the Association. Access to lots created in the 1974 resubdivision of Tract A was platted as the extension of Sockeye Lane on Plat 74-85, but this road was never constructed. The Declaration of Easements filed by the subdivision developer dated September 30, 1974 did not grant lot owners in Tract A rights for use of the 1972 easements, and the Association believes the extension of Sockeye Lane remains their legal access. Lot owners in Tract A use the route established in the 1972 Declaration of Easements for Block 5 lot owners, and the Association believes this use is by the grace of their neighbors.