

REFERENDUM FOR A COVENANT AMENDMENT
TO LIMIT LIABILITY
RECOMMENDED TO
THE KIAWAH ISLAND COMMUNITY ASSOCIATION (KICA)

REFERENDUM PETITION SEEKING TO PROPOSE A COVENANT AMENDMENT WHEREIN FUNDING FOR REPAIR OR REPLACEMENT OF INFRASTRUCTURE LOCATED WITHIN A COASTAL BARRIER RESOURCE SYSTEM (CBRS) UNIT THAT IS NOW, OR MAY IN THE FUTURE BECOME, THE RESPONSIBILITY OF K.I.C.A. SHALL BE DERIVED FROM SEGMENT ASSESSMENT UPON THE OWNERS OF PROPERTY LOCATED WITHIN THE AFFECTED CBRS UNIT.

TEXT OF THE COVENANT AMENDMENT:

Whereas, the Ecological Inventory of Kiawah Island commissioned by the owners of the island in 1974 details the importance of Captain Sams Spit and other areas of Kiawah Island as vital habitat for threatened species as well as areas too unstable for development, and

Whereas, the Federal Coastal Barriers Resources Act (CBRA) and preceding legislation passed in 1981 and 1982 outlined that the federal government desires to discourage development of some undeveloped coastal areas that are too hazardous or environmentally sensitive for development and, therefore, these designated areas will not be eligible for federal flood insurance funding or disaster relief for infrastructure repair and replacement, and

Whereas, in 1982, and reaffirmed in 1990, Captain Sams Spit and other areas of Kiawah Island were designated as part of the Coastal Barriers Resource System (CBRS) Units M08 and M07 in order to discourage their development, all with the full knowledge of and without any objections from the property owner/developer or other stakeholders of Kiawah Island each time, and

Whereas, the Association of State Floodplain Managers (ASFPM) asserts for the record that the designation of Captain Sams Spit as part of the Coastal Barriers Resource System is imperative for protection against unwise development by limiting the ability to gain federal flood insurance, and

Whereas, in 2009, the State of South Carolina Department of Health and Environmental Control's Office of Coastal Resource Management denied a permit to construct a 2,783-foot long bulkhead and stated that Captain Sams Spit is a dynamic and mobile area that is included in the CBRS where development is discouraged and conservation of wildlife and natural resources are encouraged, and

Whereas, the Kiawah Island Community Association Covenants as currently constituted require the Community Association to maintain and repair Common Properties throughout Kiawah Island, including but not limited to roads and permanent or temporary armoring structures such as bulkheads, revetments, etc., and

Whereas, the Kiawah Island Community Association covenants provide that proposed amendments to the covenants shall be submitted to a vote of the Members, but do not provide a definitive mechanism for members to propose an amendment,

Therefore, we hereby request that the KICA Board of Directors provide proper notification for presentation of this amendment to the membership for a vote at the 2010 KICA Annual Meeting.

The following provision shall be added to Article V of the Kiawah Island Community Association Covenants:

Annual Assessments or Special Assessments shall not be used to pay for damage caused by erosion or by tropical storms, hurricanes, winds, waves, flooding, storm surge or other catastrophic natural events within a federally designated Coastal Barrier Resources System (CBRS) Unit. Any expenditure by KICA for such damages shall be funded exclusively by means of a Segment Assessment, as described in Article V, Section 5 (a), to be borne by Owners within that CBRS Unit.

Any existing structure built prior to November 1, 2009 shall be exempt from this provision.

**Signers Must Be Members of KICA
Use Pen Only - Please Print All Information Except for Signature**

**Return Your Signed Petition to:
Greg VanDerwerker
510 Ruddy Turnstone Dr.
Kiawah Island, SC 29455**

Print Name: _____

Kiawah Island Property Address: _____

Signature: _____

Date: _____