

April 15, 2008

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Comm. Reg. of Deeds, Belknap County

Barbara R. Litcher

APR 15 2008

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DISCRETIONARY EASEMENT DEED

We, GERALD R. CHAILLE and ANNE MARIE CHAILLE, of Route 3, Tilton, New Hampshire 03276, hereby convey to the TOWN OF TILTON, a New Hampshire municipal corporation, of 257 Main Street, Tilton, New Hampshire 03276, pursuant to New Hampshire Revised Statutes Annotated Chapter 79-C as amended, with WARRANTY COVENANTS, an easement not to subdivide, develop, or otherwise change the use of the described land to a more intensive use inconsistent with the purposes of said Chapter 79-C. This Easement is granted on the conditions: (A) that the said land will be assessed at a value of Three Thousand Dollars (\$3,000) per acre for the full 137.63 acres involved (\$412,890), such assessed value for tax purposes to be continued for the full term of this Easement, which shall be twenty (20) years beginning with the taxable year starting April 1, 2008, (B) that the said Town will not exercise or allow others to exercise such development rights, except grantors upon a demonstration of extreme personal hardship, pursuant to RSA 79-C:8, 1, (C) this Easement shall not be assigned, transferred or released by the Town without consent of grantors, except

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pursuant to RSA 79-C:8, I, and (D) this Easement shall be a burden on the land and bind all transferees and assignees of such land.

The land subject to the Discretionary Easement is identified as the "Discretionary Easement Area" on plans entitled "Discretionary Easement Plan, Lochmere Golf and Country Club, Tilton, NH" by Holden Engineering & Surveying, Inc. recorded in Drawer L21 as Plan No. 83 and Drawer L32 as Plan Nos. 71 and 72 in the Belknap County Registry of Deeds. Meaning and intending to describe and convey a discretionary easement in and to the land described in Discretionary Easement Deed from Gerald Chaille and Anne Marie Chaille to the Town of Tilton dated October 18, 1994, and recorded in the Belknap County Registry of Deeds at Book 1315, Page 545 and the Amended Discretionary Easement Deed from Gerald Chaille and Anne Marie Chaille to the Town of Tilton dated November 2, 1998, and recorded in the Belknap County Registry of Deeds at Book 1538, Page 214. See also Book 1547, Page 934.

RSA 79-C:3, II(f) requires that land on a golf course that is subject to a discretionary easement must be open to the general public. Thus as long as the land is used as a golf course, said course must be open to the public. Further, the Discretionary Easement Areas identified on the above-referenced plans shall be open to the general public from December 1 through April 1, and at such other times as the grantors or their successors and assigns, in their sole judgment, determine that the allowed activities will not interfere with the use of the property as a golf course. The allowed activities shall include hiking, sledding, snowboarding, cross country skiing and such other outdoor activities that will not cause damage to the greens and fairways of the golf course. The grantors or their successors and assigns may place signs, fencing, or other devices to

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prevent the public from traversing the greens of the golf course. The Town may erect signs along Route 3 and on other property of the grantors, so as to inform the general public that the grantors' premises are open to the general public for the allowed activities. The signs shall be approved by the grantors whose approval shall not be unreasonably withheld.

The grantors or their successors and assigns may apply to the Board of Selectmen of the Town of Tilton for a release of the discretionary easement granted hereby upon a demonstration of extreme personal hardship, pursuant to RSA 79-C:8, I. Release of the easement shall be granted only upon a demonstration of such hardship and for no other reason. Upon release from the discretionary easement, the grantors or their successors and assigns shall pay the following consideration to the Tax Collector of the Town of Tilton:

- a. For a release before April 1, 2018, twenty percent (20%) of the RSA 75:1 full value assessment of the land at the time of release; and
- b. For a release on or after April 1, 2018, but before April 1, 2028, fifteen percent (15%) of the RSA 75:1 full value assessment of the land at the time of release.

The grantors or their successors and assigns shall pay to the Town of Tilton five percent (5%) of the fair market value of the property upon final expiration of the terms of the discretionary easement conveyed hereby or renewed discretionary easement, as provided under RSA 79-C:8, II. There shall be no such payment upon any renewal of the easement conveyed hereby. In addition, there shall be no such payment upon the final expiration of

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the discretionary easement if the grantors or their successors and assigns offer to renew said easement and the Town rejects said offer; provided, however, that the Town reserves its right upon such renewal to set the assessed value of the property subject to the easement within the range of values set forth in RSA 79-C:7 or its successor.

Upon breach of the provisions of this Deed by the grantors or their successors and assigns, the Town shall be entitled to all remedies at law or in equity, including specific performance. Should it be necessary for the Town to seek such remedies upon breach hereof, the Town shall be entitled to recover its costs and attorneys' fees incurred in pursuing same, in the event that it is the prevailing party, and shall be entitled to liquidate damages equal to twenty percent (20 %) or fifteen percent (15 %) of the RSA 75:1 full assessment value of the land at the time of the breach, depending upon whether the breach occurs before April 1, 2018, or on or after April 1, 2018.

The premises subject to the discretionary easement are not the homestead of the grantors.

[THIS TRANSFER IS EXEMPT FROM THE NEW HAMPSHIRE TRANSFER TAX AS A CONVEYANCE TO A MUNICIPALITY PURSUANT TO RSA 78-B:2, 1.]

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Date: 3-18-2008

Gerald R. Chaille
Gerald R. Chaille

On this 18th day of March, 2008, personally appeared before me, Gerald R. Chaille, who executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

 **DAVID M GULA**
MY COMMISSION # DD660083
EXPIRES April 05 2011
FontNotaryService.com

[Signature]
Notary Public/Justice of the Peace
My Commission Expires: April 05, 2011

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Date: 03-25-2008

Anne Marie Chaille
Anne Marie Chaille

On this 25th day of March, 2008, personally appeared before me, Anne Marie Chaille, who executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

[Signature]
Notary Public/Justice of the Peace
My Commission Expires: 10-03-2012

GREGORY R. LOUNSBURY, Notary Public
My Commission Expires October 3, 2012

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