

~~Doc# 2006005302~~~~Bk 14741 Pg 0950~~~~0951~~~~Received York Co~~~~01/30/2006~~~~11:36AM~~~~Debra L. Anderson~~~~Register of Deeds~~

## DECLARATION OF COVENANTS WITH RESPECT TO ROAD MAINTENANCE

KNOW ALL MEN BY THESE PRESENTS, that the Undersigned as owner of certain lot or parcel of land located on 78 Wells Road in the Town of Cape Elizabeth, County of Cumberland and State of Maine (the "Property");

WHEREAS, the Undersigned desires to create a new back lot more particularly described as Lot B on the Plan of Private Accessway for 78 Wells Road, Cape Elizabeth, made for Len Gulino, by Owen Haskell, Inc., said Plan being recorded in the Cumberland County Registry of Deeds in Plan Book 206, Page 3 (the "Back Lot") consisting of a portion of the Property;

WHEREAS, the Back Lot shall be serviced by a private accessway;

WHEREAS, the Undersigned desire to subject the Back Lot and the owner of the Back Lot to a perpetual obligation to maintain said private accessway;

NOW, THEREFORE, in consideration of these premises, the Undersigned for themselves and their respective successors and assigns, hereby subject the Back Lot to the following agreement as covenants running with the land which shall be binding upon and enforceable by the parties and their respective successors and assigns, or by the then owners of any parcels subject to this Declaration, to wit:

1. Maintenance of Road. The Undersigned owner of the Back Lot hereby agrees to provide for the maintenance and repairs necessary to keep the private accessway passable on foot and by motor vehicles, including without limitation, the emergency vehicles of the Town of Cape Elizabeth, including grading, snowplowing, sanding and trimming of vegetation.

2. Enforcement. This Declaration may be enforced by all legally permissible powers of enforcement. All costs and expenses of enforcement and collection, including reasonable attorney's fees and interest on such costs and expenses, shall constitute a lien on the Back Lot. The recording of this Declaration constitutes record notice of the lien, which may be foreclosed in the same manner as a mortgage or real estate or by any other method now or hereafter permitted by law. The Town of Cape of Elizabeth shall have the right, but not the obligation, to enforce this agreement in order to ensure access for emergency vehicles. Any and all costs incurred by the Town of Cape Elizabeth in enforcing this agreement and maintaining the private accessway, including reasonable attorney's fees, shall be the responsibility of the Undersigned and any future owners of the Back Lot who may join in the execution of this Declaration, or take ownership to all or any portion of the Back Lot.

3. Nonwaiver. Nothing contained herein shall waive or impair the legal obligations of other owners in common of some or all the remainder of the Property to contribute to such expenses of maintenance and repair, or any rights of subrogation which the Undersigned or its successors may hold as a result of their advance of such expenses upon the failure of such owner of the Back Lot to pay for such expenses.

4. General. Other owners of some or all the Property may join in this Declaration by a written agreement duly recorded, but the failure to join in this agreement shall not impair their legal and equitable obligations.

2p → BSSN 100 Middle St. Portland, ME. 04104

If any provisions of this Declaration, or its application to any persons or circumstances, is invalid or unenforceable, then the remainder of this Declaration, or the application of such provision to other persons or circumstances, shall not be affected thereby.

IN WITNESS WHEREOF, the Undersigned has/have executed this Declaration of covenants this 24th day of January, 2006.

WITNESS: Kathleen M. Sawyer SUNRISE ISLAND, LLC

By Leonard M. Gulino  
Its Managing Member

STATE OF MAINE

Cumberland, SS.

January 24, 2006

Personally appeared the above-named Leonard M. Gulino and acknowledged the foregoing execution to be his free act and deed in said capacity and the free act and deed of Sunrise Island, LLC.

Before me,

Kathleen M. Sawyer

Notary Public/Attorney at Law

Printed Name \_\_\_\_\_

**KATHLEEN M. SAWYER**  
Notary Public, Maine  
My Commission Expires August 23, 2012

SEAL

**End of Document**

Received  
Recorded Register of Deeds  
Feb 06, 2006 10:02:03A  
Cumberland County  
John B. O'Brien