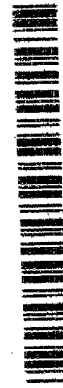


DRIVEWAY EASEMENT AGREEMENT

Document Number

Document Title

271



DOCUMENT NUMBER

1414042

RECORDED

At Kenosha County, Kenosha, WI 53140
Louise L. Principi, Register of Deeds
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Recording Area

Name and Return Address

Jill and Matthew Rittorno
1514 E. Lakeshore Drive
Twin Lakes, WI 53181

86-4-119-281-4311

86-4-119-281-3330

86-4-119-281-4335

Parcel Identification Number (PIN)

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DRIVEWAY EASEMENT AGREEMENT

THIS JOINT DRIVEWAY AGREEMENT (the Agreement) is between (Kenneth N. Samuel and Nancy E. Samuel) (Parcel A Owner) and (Kenneth N. Samuel and Nancy E. Samuel) (Parcel B Owner).

RECITALS:

- A. Parcel A Owner is the owner of certain real property located in Kenosha County, Wisconsin, as described on the attached Exhibit A and referred to on the exhibit and in this Agreement as Parcel A.
- B. Parcel B. Owner is the owner of certain real property located in Kenosha County, Wisconsin, as described on the attached Exhibit B and referred to on the exhibit and in this Agreement as Parcel B.
- C. Parcel B Owner is willing to create an easement over the Easement Property to enable Parcel A Owner to use the said easement under the terms of this Agreement.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

- 1. **Grant.** Parcel B Owner grants a nonexclusive easement and right-of-way to Parcel A Owner and Parcel A Owner's successors and assigns as the owner of Parcel A to use the Driveway and the Easement Property as a joint driveway for ingress and egress to Lake Shore Drive from Parcel A.
- 2. **Permitted Users.** The easement granted in Section 1, above, may be used by the Parcel A Owner or other and its tenants, employees, customers, and invitees in common with Parcel B Owner and its tenants, employees, customers, and invitees.
- 3. **Initial Construction Costs.** Either Parcel A Owner or Parcel B Owner (the Constructing Party) may construct the Driveway at its sole expense. At such time as the party other than the Constructing Party (the Non-Constructing Party) commences construction of any building on the property owned by the Non-Constructing Party, which building is to be served by the Driveway, the Non-Constructing Party shall pay to the Constructing Party one-half of the Constructing Party's documented costs incurred in the construction of the Driveway.

- 4. Maintenance Costs.** Until any building is constructed on the Non-Constructing Party's property, the Constructing Party shall bear all of the expenses of maintaining, repairing, and removing snow and debris from the Driveway. Following issuance of an occupancy permit for any building constructed on the Non-Constructing Party's property (or, if no occupancy permit is issued, then following occupancy of any such building), Parcel A Owner and Parcel B Owner shall bear all maintenance expenses equally. Unless Parcel A Owner and Parcel B Owner agree otherwise, all maintenance, repair, and removal shall be performed by Parcel A Owner, and Parcel B Owner agrees to promptly pay its share of the expenses of maintenance, repair, and removal incurred by Parcel A Owner within 30 days of billing for the expenses. If Parcel B Owner does not promptly pay its share, Parcel A Owner may pay the full cost and then have an immediate right to reimbursement from Parcel B Owner, together with interest at the rate of 6 % per year on the unpaid amount and all reasonable attorney fees and other collection costs incurred by Parcel A Owner. Repairs and maintenance shall be performed at such times and in such a manner as are mutually agreeable to the parties. If the parties are unable to agree within 10 days of a written request by one or the other on the need for the repair or maintenance, then the matter shall be referred, upon either party's request, to arbitration.
- 5. Indemnity.** Parcel A Owner shall indemnify and defend Parcel B Owner and its officers, agents, and employees from all liability, suits, actions, claims, costs, damages, and expenses of every kind and description, including court costs and legal fees, for claims of any character, including liability and expenses in connection with the loss of life, personal injury, or damage to property, brought because of any injuries or damages received or sustained by any person, persons, or property on account of or arising out of the use of Parcel B by Parcel A Owner or its agents, contractors, subcontractors, invitees, or employees.
- 6. Insurance.** Parcel A Owner shall maintain in effect at all times during the terms of this Agreement a policy of commercial general liability insurance naming Parcel B Owner and any other party designated by Parcel B Owner as the insured, to insure against injury to property, person, or loss of life arising out of Parcel A Owner's use, occupancy, or maintenance of the Easement Property or the Driveway with limits of coverage that are at levels customarily maintained by businesses in the community in which the Easement Property is located. For each year in which this easement is in effect, Parcel A Owner shall provide Parcel B Owner and the other parties designated by Parcel B Owner with a copy of the insurance policy endorsement or wording showing that Parcel B Owner and the other parties have been added as additional insureds. The policy shall contain a supplemental endorsement covering contractual liability voluntarily assumed by the insured under this Agreement. Insurance required of Parcel A Owner under this Agreement shall be written by companies duly qualified to do business in the State of Wisconsin and shall be satisfactory in all respects to Parcel B Owner and the holder of any mortgage against Parcel B. Parcel A Owner shall deliver to Parcel B Owner copies of the policies or certificates evidencing the existence and amounts of the insurance

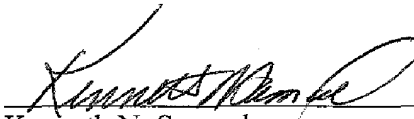
with loss payable clauses satisfactory to Parcel B Owner. No such policy shall be cancelable or subject to reduction of coverage or modification except after 30 days' prior written notice to Parcel B Owner. At least 30 days before the expiration of Parcel A Owner's policies, Parcel A Owner shall furnish Parcel B Owner with renewals or "binders" of the policies, or Parcel B Owner may order such insurance and charge the cost to Parcel A Owner. Parcel A Owner shall not do or permit anything to be done that will invalidate the insurance policies furnished by Parcel A Owner. Parcel B Owner may from time to time require that the policy limits of any or all such insurance be increased to reflect the effects of inflation and changes in normal commercial insurance practice.

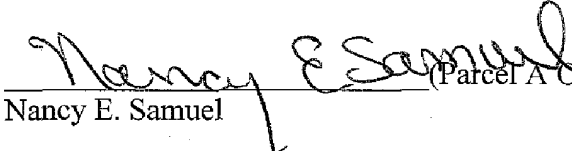
7. **Equal Rights of Use.** Parcel A Owner and Parcel B Owner shall have equal rights in ingress and egress over the Driveway and shall take no action to prevent the other party's enjoyment of such rights.
8. **Covenants Run with Land.** All of the terms and conditions in this Agreement, including the benefits and burdens, shall run with the land and shall be binding upon, inure to the benefit of, and be enforceable by Parcel A Owner and Parcel B Owner and their respective successors and assigns. The easement granted under Section 1 of this Agreement is an easement appurtenant to Parcel A and may not be transferred separately from, or severed from, title to Parcel A. Furthermore, the benefits of the easements granted under this Agreement shall not be extended to any properties other than Parcel A without the consent of Parcel B Owner. The specific parties named as Parcel A Owner and Parcel B Owner in this Agreement, and each of their respective successors and assigns as fee simple owners of Parcel A and Parcel B, respectively, or any portion of Parcel A or Parcel B, shall cease to have further liability under this Agreement with respect to facts or circumstances first arising after the party has transferred its fee simple interest in Parcel A or Parcel B, respectively, except, however, for obligations that accrued during the party's period of ownership of title.
9. **Non-Use.** Non-use or limited use of the easement rights granted in this Agreement shall not prevent Parcel A Owner from later use of the easement rights to the fullest extent authorized in this Agreement.
10. **Governing Law.** This Agreement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin.
11. **Entire Agreement.** This Agreement sets forth the entire understanding of the parties and may not be changed except by a written document executed and acknowledged by all parties to this Agreement and duly recorded in the office of the Register of Deeds of Kenosha County, Wisconsin.
12. **Notices.** All notices to either party to this Agreement shall be delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the other party at that party's last known address. If the other party's address is not known to the

party desiring to send a notice, the party sending the notice may use the address to which the other party's property tax bills are sent. Either party may change its address for notice by providing written notice to the other party.

- 13. Invalidity.** If any term or condition of this Agreement, or the application of this Agreement to any person or circumstance, shall be deemed invalid or unenforceable, the remainder of this Agreement, or the application of the term or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and condition shall be valid and enforceable to the fullest extent permitted by law.
- 14. Waiver.** No delay or omission by any party in exercising any right or power arising out of any default under any of the terms or conditions of this Agreement shall be construed to be a waiver of the right or power. A waiver by a party of any of the obligations of the other party shall not be construed to be a waiver of any breach of any other terms or conditions of this Agreement.
- 15. Enforcement.** Enforcement of this Agreement may be by proceedings at law or in equity against any person or persons violating or attempting or threatening to violate any term or condition in this Agreement, either to restrain or prevent the violation or to obtain any other relief. If a suit is brought to enforce this Agreement, the prevailing party shall be entitled to recover its costs, including reasonable attorney fees, from the non-prevailing party.
- 16. No Public Dedication.** Nothing in this Agreement shall be deemed to be a gift or dedication of any portion of the easement granted under this Agreement to the general public or for any public purpose whatsoever. Parcel A Owner and Parcel B Owner agree to cooperate with each other and to take such measures as may be necessary to prevent the dedication to the public of the Driveway, whether by express grant, implication, or prescription, including, without limitation, the posting of "Private Drive" or "No Trespassing" signs. Such measures shall not, however, unreasonably interfere with the easement rights granted under this Agreement.

Dated: 12-1-04


Kenneth N. Samuel (Parcel A Owner)


Nancy E. Samuel (Parcel A Owner)

Kenneth N. Samuel (Parcel B Owner)
Kenneth N. Samuel

Nancy E. Samuel (Parcel B Owner)
Nancy E. Samuel

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) ss:
COUNTY OF KENOSHA)

This instrument was acknowledged before me on 12/8/09 by Kenneth N. Samuel and Nancy E. Samuel

Beth D. Alvey
(Name of notary public) Beth D. Alvey
Notary Public, State of Wisconsin
My commission expires: 12/09/07

This document drafted by:
David T. Smith, Esq.
326 E. Main Street
P.O. Box 268
Twin Lakes, WI 53181

EXHIBIT A

Parcel A

Part of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 28, town 1 north, range 19 east of the fourth principal meridian, more particularly described as follows: Begin at the northwest corner of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of said section; thence east 258.57 feet to the point of beginning; thence east 71.43 feet; thence south 112 feet; thence west 71.43 feet; thence north 112 feet in the point of beginning TOGETHER WITH an easement for ingress and egress to Park Avenue over the following described parcel: Part of the northeast $\frac{1}{4}$ of said section 28 more particularly described as follows: Begin at the northwest corner of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of said section; thence south 89 degrees 23 minutes east on the north line of said $\frac{1}{4}$ $\frac{1}{4}$ section, 152.04 feet; thence south 35 degrees 24 minutes west 129.61 feet; thence south 52 degrees 47 minutes east, 9.16 feet to the point of beginning of said easement; thence south 89 degrees 23 minutes east, 246.02 feet; thence south 0 degrees 08 minutes east 20 feet; thence north 89 degrees 23 minutes west and to a point south 0 degrees 08 minutes east, 20 feet from the point of beginning; thence north 52 degrees 47 minutes west to a point on the southeasterly line of Park Avenue; thence north 35 degrees 24 minutes east along the said line of Park Avenue, 20 feet; thence south 52 degrees 47 minutes east, 156.27 feet to the point of beginning, lying and being in the Village of Twin Lakes, County of Kenosha and State of Wisconsin.

Along with:

Part of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 28, town 1 north, range 19 east of the fourth principal meridian, more particularly described as follows: Begin at the northwest corner of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 28; thence south 89 degrees 23 minutes east, on the north line of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 28, 187.14 feet to the place of beginning of land hereinafter described; thence continue south 89 degrees 23 minutes east, on the north line of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 28, 71.43 feet, thence south 0 degrees 08 minutes east, parallel with the west line of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 28, 112.00 feet; thence north 89 degrees 23 minutes west, parallel with the north line of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 28, 71.43 feet, thence north 0 degrees 08 minutes west, parallel with the west line of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 28, 112.00 feet to the place of beginning, TOGETHER WITH the following easement: Part of Block 2, Unity Park and part of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of said section 28 and more particularly described as follows: Begin at the northwest corner of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 28, thence south 0 degrees 08 minutes east on the west line of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 28, 132.00 feet to the place of beginning of land hereinafter described; thence north 52 degrees 47 minutes west, 98.89 feet to the southeasterly line of Park Avenue of Unity Park; thence north 35 degrees 24 minutes east on the southeasterly line of Park Avenue, 66.00 feet; thence south 52 degrees 47 minutes east, 156.27 feet; thence south 89 degrees 23 minutes east, parallel to the north line of the southeast $\frac{1}{4}$ of

the northeast $\frac{1}{4}$ of section 28, 246.02 feet; thence south 0 degrees 08 minutes east, parallel to the west line of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 28, 20.00 feet; thence north 89 degrees 23 minutes west, parallel to the north line of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 28, 330.00 feet to the place of beginning, lying and being in the Village of Twin Lakes, County of Kenosha and State of Wisconsin.

86-4-119-281-4311

EXHIBIT B

Parcel B

Part of block 2 of UNITY PARK and part of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 28, town 1 north, range 19 east of the fourth principal meridian, more particularly described as follows: Commencing at the northwest corner of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 28, town 1 north, range 19 east of the fourth principal meridian; thence south 0 degrees 08 minutes east on the west line of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 28, 132.00 feet to the place of beginning of land hereinafter described; thence north 52 degrees 47 minutes west 98.89 feet to the southeasterly line of Park Avenue of Unity Park Subdivision; thence north 35 degrees 24 minutes east of the southeasterly line of Park Avenue 66.00 feet; thence south 52 degrees 47 minutes east 156.27 feet; thence south 0 degrees 08 minutes east 20 feet; thence north 89 degrees 23 minutes west parallel to the north line of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 28 to the place of beginning. Excluding therefrom the southwesterly 23 feet of said parcel of land, same being conveyed by the parties of the first part to Gerald J. Sullivan and Esther R. Sullivan, his wife, by Warranty Deed dated the 27th day of August, 1966; and Further Excluding Therefrom the northeasterly 20 feet, more particularly described as: Commencing at the northwest corner of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 28, town 1 north, range 19 east of the fourth principal meridian, thence south 0 degrees 08 minutes east 132 feet; thence north 52 degrees 47 minutes west 98.89 feet to the southeasterly line of Park Avenue, Unity Park Subdivision; thence north 35 degrees 24 minutes east on the southeasterly line of Park Avenue 46.00 feet to the place of beginning; thence continuing north 35 degrees 24 minutes east on the southeasterly line of Park Avenue 20.00 feet; thence south 52 degrees 47 minutes east 156.27 feet; thence south 0 degrees 08 minutes east 20.00 feet to a point; thence north 52 degrees 47 minutes east to the place of beginning, lying and being in the Village of Twin Lakes, County of Kenosha and State of Wisconsin.

86-4-119-281-3330

Part of the northeast $\frac{1}{4}$ of section 28, town 1 north, range 19 east of the fourth principal meridian, more particularly described as follows: Begin at the northwest corner of the southeast $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of said section; thence south 89 degrees 23 minutes east of the north line of said $\frac{1}{4}$ $\frac{1}{4}$ section 152.04 feet; thence south 35 degrees 24 minutes west 129.61 feet; thence south 52 degrees 47 minutes east 9.16 feet to the point of beginning; thence south 89 degrees 23 minutes east 246.02 feet; thence south 0 degrees 08 minutes east 20 feet; thence north 89 degrees 23 minutes west and to a point south 0 degrees 08 minutes east 20 feet from the point of beginning; thence north 52 degrees 47 minutes west to the point on the southeasterly line of Park Avenue; thence north 35 degrees 24 minutes east along the said line to Park Avenue 20 feet; thence south 52 degrees 47 minutes east 156.27 feet to the point of beginning, lying and being in the Village of Twin Lakes, County of Kenosha and State of Wisconsin.

86-4-119-281-4335