



# Dutchess County Clerk Recording Page

Record & Return To:

Date Recorded: 9/29/2015

Time Recorded: 3:12 PM

ROBERT BOOLUKUS ESQ  
1065 MAIN ST  
  
FISHKILL, NY 12524

Document #: 02 2015 6196

Received From: NEW VENTURE ABSTRACT LTD

Grantor: O'DONNELL & SONS INC

Grantee: O'DONNELL & SONS INC

Recorded In: Deed

Tax District: Beekman

Instrument Type: EASE

## Examined and Charged As Follows :

Recording Charge: \$90.00  
Transfer Tax Amount: \$0.00  
Includes Mansion Tax: \$0.00  
Transfer Tax Number: 1237

Number of Pages: 9

\*\*\* Do Not Detach This Page

\*\*\* This is Not A Bill

Red Hook Transfer Tax:

RP5217: N

TP-584: Y

County Clerk By: cha

Receipt #: 106447

Batch Record: 2021

Bradford Kendall  
County Clerk



0220156196

(Easement)  
8/9  
85  
5  
90

**DECLARATION OF ACCESS AND DRIVEWAY AGREEMENT**  
**PARCELS 3 AND 4**

THIS DECLARATION, made on the 8th day of August, 2014, by O'DONNELL & SONS, INC., a New York corporation having an address at PO Box 526, 218 Van Wyck Lake Road, Fishkill, New York 12524 (hereinafter referred to as the "Declarant").

**WITNESSETH:**

WHEREAS, the Declarant is the owner in fee simple of certain real property situate, lying and being in the Town of Beekman, County of Dutchess, State of New York, for which Grantee received from the Town of Beekman Planning Board (the "Planning Board") preliminary approval for a subdivision entitled "Stone Ridge Estates" (hereinafter the "Property", or the "Subdivision", or "Stone Ridge Estates") to include 18 residential lots and the creation of two public roads to be known as Stone Ridge Road and Halle Court, on May 20, 2010 and final approval on March 15, 2012 (the "Final Resolution"); and

WHEREAS, the Subdivision Map for Stone Ridge Estates which was filed in the Dutchess County Clerk's Office as Map No. 12468 on Feb. 25, 2014 (the "Map") shows a driveway easement area (the "Easement") in the lot designated as Parcel 3 (the "Easement Area"), more particularly described in Schedule A attached hereto and made a part hereof, which Easement is for the benefit of Parcel 4; and

WHEREAS, access to and from Halle Court to Parcel 4 is over Parcel 3; and

WHEREAS, Declarant now wishes to declare and establish easements to permit access to Parcel 4 over Parcel 3 as more particularly described herein.

NOW, THEREFORE, Declarant hereby declares that Parcel 3 and Parcel 4 shall be held, sold, conveyed, transferred and occupied subject to the following easements, restrictions, covenants, charges, and liens which shall run with the Property and be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

Section 1. Definitions. Certain capitalized terms used in this Declaration have the following meanings:

(a) "Declarant" shall refer to the Declarant, Declarant's heirs, executors, successors and assigns, including, with respect to each easement created herein, the future Owner of any Parcel affected by such easement.

(b) "Declaration" shall mean and refer to this instrument, as the same may be amended as provided herein.

(c) "Drive" shall mean and refer to that certain driveway constructed, or to be constructed, over Parcel 3, and continuing over Parcel 4, but shall only mean and refer to that portion of the driveway within the Easement Area.

(d) "Easement Area" shall mean and refer to that area over Parcel 3 shown and designated on Schedule A attached hereto and made a part hereof.

(e) "Parcel" shall mean and refer to any parcel shown on the subdivision map of Stone Ridge Estates, or to a specific parcel on said map where so indicated by reference to such parcel number.

(f) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Parcel (whether or not such Parcel is improved).

Section 2. Declaration of Easements. The Declarant hereby declares that Parcel 3 and Parcel 4 shall be conveyed subject to, and together with, the benefits of the following Access and Driveway Easement, in, to, under and over the Easement Area:

(a) The Declarant hereby grants to the Owner of Parcel 4 as shown on the Map, a permanent non-exclusive easement over Parcel 3 as shown on the Map, but limited only to the Easement Area, for (1) the construction and installation, including paving of the Drive within the Easement Area to provide ingress and egress to and from Parcel 4 and Halle Court; and (2) pedestrian and vehicular ingress and egress to and from Parcel 4 and Halle Court.

(b) The Declarant hereby grants to the Owner of Parcel 4 as shown on the Map, a temporary grading easement, for any grading within the Easement Area, as may be required for the installation and construction of the Drive. The temporary easement created hereunder shall terminate upon the completion of said Drive and the issuance of a Certificate of Occupancy for the home to be constructed on Parcel 4.

Section 3. Maintenance and Repair of the Easement Area. In consideration of the easements described and referred to in Section 2 of this Declaration, the Parcels shall be conveyed subject to the following covenants:

(a) The maintenance and repair obligations pursuant to this Declaration shall not commence until a building permit is issued for at least one of the Parcels. At such time as a building permit is issued for a Parcel and until such time as a building permit is issued for the other Parcel, the Owner of the Parcel for which a building permit, has been issued shall be responsible for all of the maintenance and repair of the Drive, including any utilities installed therein, as set forth in subsection (b) below. At such time as an additional building permit is issued for the remaining Parcel, then the Owners of Parcel 3 and Parcel 4 shall each be responsible for fifty (50%) percent of the total costs for the maintenance and repair of the Drive.

(b) The maintenance and repair obligations referred to in subsection (a) above shall include, but shall not be limited to, all costs incurred for: (1) snow plowing, salting and sanding the Drive; (2) repairs required to keep the Drive in good condition, clear and passable; (3) removal of

overhanging foliage from the Easement Area for ordinary vehicular traffic; and (4) improvement, repaving, or replacement of the Drive constructed in the Easement Area.

(c) Any Owner responsible for the maintenance and repair of the Easement Area as provided in subsection (a) shall be responsible for any loss, cost, damage or expense suffered or incurred by the remaining Owner or Owners of as a result of the failure to comply with the maintenance and repair obligations set forth in subsection (a) hereof.

(d) Notwithstanding the provisions of subsection (a) above, during the term of this Declaration, the Owner of each Parcel shall be solely responsible (the "Responsible Party") for any damage to the Easement Area and/or the Drive caused by his acts and those of his agents, contractors, subcontractors, employees, invitees and guests and shall immediately cause such damage to be repaired, at his sole cost and expense. In the event that the Responsible Party fails to repair or replace the damage to the Easement Area and/or the Drive within fifteen (15) days of a written demand therefor (or such later period of time which shall not exceed thirty (30) days from a written demand therefor if such damage cannot be remedied within such fifteen (15) day period of time provided the Responsible Party has commenced such remedy and is diligently proceeding to complete the same), then the Owner of the other Parcel may make such repair or replacement and the Responsible Party shall reimburse said Owner within five (5) days of a demand therefor.

(e) The determination as to what improvements, repairs or maintenance are to be performed on the Easement Area and/or the Drive shall be the decision of the Declarant until such time as the Declarant no longer owns any of the Parcels, in which case such determination shall require the unanimous agreement of the Owners.

(f) The Owners of the Parcels shall not obstruct or overburden or suffer the obstruction or overburdening of the easements granted herein. If and in the event that the Owner of any Parcel or his agent, contractor, subcontractor, guest or invitee obstruct the easements granted herein (the "Responsible Owner"), then the Owner of the other Parcel shall have the right, at the Responsible Owner's cost and expense, to remove such obstruction and the costs of such removal, including reasonable attorneys' fees and costs, shall be the obligation of the Responsible Owner and shall be enforceable as a lien against his/her Parcel which shall run with the land until satisfied in accordance with the terms of Section 3(g) below.

(g) In the event the Owner of any of Parcels shall have failed to pay, in full, any obligation imposed in this Declaration within fifteen (15) days after having received written notice thereof (the "Delinquent Owner"), such unpaid amount, together with interest at the highest rate permitted by law shall be a lien upon the Delinquent Owner's Parcel which shall run with the land, and shall be enforceable by the Owner of the other Parcel, together with any expenses, including reasonable attorneys' fees, incurred by such owners in collecting any delinquent amount pursuant to this Declaration, and such costs of collection shall be added to the unpaid amount and shall constitute an additional lien against the Parcel of the Delinquent Owner.

Section 4. Repair and Restoration: Grading Easement. In consideration of the temporary grading easement described and referred to in Section 2(b) of this Declaration, Parcel 3 and Parcel 4 shall be conveyed subject to the following covenants:

(a) Said grading easement is for the sole purpose of permitting grading work to be performed in the Easement Area on Parcel 3 as may be required for the construction of the Drive in the Easement Area.

(b) The Owners of Parcel 3 or Parcel 4 shall be liable for the restoration of the Easement Area to a neat and stabilized condition if it is disturbed by either said Owner, or such Owner's agents or employees during or as a result of the construction or installation of said Drive. If and in the event the Owner of Parcel 3 or Parcel 4 fails to commence or complete such restoration work within a reasonable time after the completion of the driveway construction and after fifteen days written notice (the "Responsible Owner"), the Owner of the affected Parcel shall have the right, at the sole cost and expense of the Responsible Owner, to have such land restored to a neat and stable condition and the cost and expense of such restoration, including legal fees and costs, shall be enforceable as a lien against the Responsible Owner's Parcel in accordance with the provisions of Section 3(g).

Section 5. Duration. The easements created by Section 2(a) of this Declaration shall run with the land in perpetuity and shall bind all Owners of Parcel 3 and Parcel 4, their respective successors, heirs, executors, administrators, personal representatives and assigns. The easement created by Section 2(b) shall be binding upon the Owners of Parcel 3 and Parcel 4, their respective successors, heirs, executors, administrators, personal representatives and assigns and shall run with the land until they expire in accordance with said Section 2(b).

Section 6. Enforcement. The Declarant, or the Owners of the Parcels shall have the right to enforce these easements by any proceeding at law or in equity, against any person or persons violating or attempting to violate the easements, to restrain said violation, to require specific performance and/or to recover damages, and to recover any legal fees incurred in connection with such proceeding. Failure by the Declarant or the Owners to enforce any easement herein contained shall not be deemed a waiver of the right to do so thereafter.

Section 7. Amendment. So long as the Declarant owns any of the Parcels, this Declaration may be amended in a writing signed by the Declarant only. At such time as the Declarant no longer owns any of the Parcels, this Declaration may only be amended in writing with the consent of both Owners.

Section 8. Severability. Invalidation of any one of the provisions of this Declaration by judgment or court order shall not affect the validity of any other provision which shall remain in full force and effect.

Section 9. Singular and Plural Forms. Whenever the sense of this Declaration may make it necessary or appropriate, any singular word or term used herein shall include the plural and any masculine word or term shall include the feminine and neuter genders, and vice versa.

IN WITNESS WHEREOF, the Declarant has executed this instrument, intending that the same be recorded in the Office of the Clerk of the County of Dutchess, Division of Land Records, on the day and date first above mentioned.

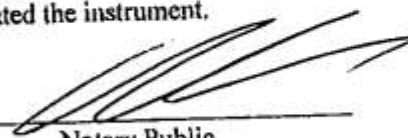
O'DONNELL & SONS, INC.

By:   
Sean O'Donnell, President

STATE OF NEW YORK )  
COUNTY OF Dutchess ) ss.:

~~ROBERT BOOLUKOS~~  
~~Notary Public, State of New York~~  
~~Qualified in Dutchess County~~  
~~Registration No. 02804711036~~  
~~My Commission Expires March 30, 20~~

On the 8<sup>th</sup> day of August, in the year 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Sean O'Donnell, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within Instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

ROBERT BOOLUKOS  
Notary Public, State of New York  
Qualified in Dutchess County  
Registration No. 02804711036  
My Commission Expires March 30, 20 18

508 The introductory paragraph of the declaration  
are deemed incorporated into the same.

**SCHEDULE A**

**EASEMENT AREA WITHIN PARCEL 3 FOR THE BENEFIT OF PARCEL 4  
OF STONE RIDGE ESTATES**

Driveway Easement

All that certain piece or parcel of land lying and situate in the Town of Beekman, County of Dutchess, and State of New York, shown on a certain map entitled, "Subdivision Plat of Stone Ridge Estates of Beekman prepared for Beekman Home and Land Development, LLC", to be filed in the Dutchess County Clerks Office, being more particularly bounded and described as follows,

Beginning at a point on the southerly side of the cul-de-sac of Halle Court at the northwest corner of Lot 3, running thence

1. S 16°15'22" W, 101.96', along Lot 3 on the east and Lot 4 on the west,
2. N 62°39'50" E, 49.63', through Lot 3,
3. N 09°45'27" E, 77.95', to Halle Court,
4. Westerly on a curve to the right having a radius of 70.00' for an arc length of 29.01' (chord: S 86°33'55" W, 28.81'), back to the point of Beginning.



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DECLARATION OF ACCESS AND DRIVEWAY AGREEMENT

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Section  
Block  
Lot 3 for the benefit of 4 (Stone Ridge Estates)  
Town of Beekman  
County of Dutchess  
State of New York

Record and return to:

Robert Boolukus, Esq.  
1065 Main Street  
Fishkill, New York 12524