

Ulster County
Nina Postupack
County Clerk
Kingston, NY 12401



60 2005 00030356

Instrument Number: 2005- 00030356

As

D28 - RIGHT OF WAY

Recorded On: November 09, 2005

Parties: SHULTIS MARIE A

To

LEFEBVRE LENORE

Recorded By: MARIE A SHULTIS

Comment: HURLEY

Billable Pages: 7

Num Of Pages: 8

**** Examined and Charged as Follows: ****

D28-						
RIGHT OF WAY	46.00	Tax Affidavit TP 584		5.00		
Recording Charge:	51.00					
		Consideration				
	Amount	Amount	RS#/CS#			
Tax-Transfer	0.00	0.00	2218	Basic	0.00	
				Additional	0.00	Transfer
					Special Additional	0.00
						0.00
Tax Charge:	0.00					

**** THIS PAGE IS PART OF THE INSTRUMENT ****

I hereby certify that the within and foregoing was recorded in the Clerk's Office For: Ulster County,

File Information:

Record and Return To:

Document Number: 2005- 00030356

Receipt Number: 352554

Recorded Date/Time: November 09, 2005 03:14P

Book-Vol/Pg: Bk-D VI-4171 Pg-169

Cashier / Station: s smat / Cashier Workstation 4

MARIE A SHULTIS

1 SHULTIS LANE

HURLEY NY 12443



Nina Postupack Acting County Clerk

7
TW 28

PRIVATE
RIGHT-OF-WAY AND
MAINTENANCE AGREEMENT

This Agreement is made as of October 31, 2005 by the property owners (see attached list) hereto and their successors and assigns with respect to real estate located in the Town of Hurley, Ulster County, New York.

WHEREAS, MARIE ANN SHULTIS, 1 Shultis Lane, Hurley, NY 12443 is the owner of certain real property in the Town of Hurley, Ulster County, New York, and,

WHEREAS, LENORE LEFEBVRE, 5 Shultis Lane, Hurley, NY 12443 is the owner of certain real property in the Town of Hurley, Ulster County, New York, and,

WHEREAS, MARIE SHULTIS has obtained approval for a three (3) lot subdivision from the Town of Hurley Planning Board, and,

WHEREAS, Lots 1 and 3 of said subdivision, and another parcel contiguous with Lot 3 in said subdivision and referred to on said subdivision map as "other lands of Marie Ann Shultis, Liber 2907, page 144" and referred to herein as the "Shultis Parcel" all belong to Marie Ann Shultis, and

WHEREAS Lot 2 of subdivision belongs to LENORE LEFEBVRE, and

WHEREAS, all of the aforesaid lots and the Shultis Parcel hereinafter referred to as "subject properties" are to be served by a commonly used fifty foot (50') wide right-of-way known as Shultis Lane, and,

WHEREAS, the aforementioned private right-of-way is not a town road, and,

WHEREAS, said private right-of-way is not maintained by the Town of Hurley, and,

WHEREAS, said commonly used fifty foot (50') wide private right-of-way known as Shultis Lane as designed by MARIE ANN SHULTIS will not comply with current specifications of the Town of Hurley for the construction, dedication and acceptance of public highways of the Town and that accordingly, the expense and responsibility of upkeep, maintenance, snow removal, insurance and improvement will not be assumed by the Town as the same must be assumed by the owners of the subject properties benefited thereby, and,

WHEREAS, the undersigned are desirous of implementing a right-of-way and maintenance agreement for the aforementioned fifty foot (50') wide private right-of-way known as Shultis Lane,

NOW, THEREFORE, the undersigned state(s) as follows:

1. PREMISES

- (a) MARIE ANN SHULTIS, a/k/a Marie Shultis, is the owner of Lots 1 and 3 and the Shultis Parcel as shown on "Map of subdivision of lands of Marie Ann Shultis" being part of Lots 4 and 5, Great Lot 7, 1st Allotment, Hurley Patentee Woods, situate in the Town of Hurley, County of Ulster, State of New York made by Bert C. Winne, III and last revised ~~October 24~~, 2005 which said map is to be filed in the Ulster County Clerk's Office/simultaneously herewith as Map # 05-1546 (the "subdivision map").

November 1, 2005
MAS JL

R+R
Marie A. Shultis
1 Shultis lane
Hurley NY 12443

CHECKED AC
ENTERED SMY
MARK/OFF _____

- (b) LENORE LEFEBVRE is the owner of Lot 2 as shown on the aforementioned subdivision map.
- (c) The subject properties referred to herein are to be served by a fifty foot (50') wide private right-of-way depicted on the aforementioned subdivision Map, which said right-of-way is not maintained as a public highway.
- (d) The owners of the Lots 1, 2, 3 and the Shultis parcel shall be and are responsible for all upkeep, maintenance and snow removal so as to provide reasonably safe and passable movement of vehicles for ingress and egress including fire, safety and emergency vehicles under all weather conditions as required from the public way and running to and from the driveways leading to residences or other improvements situate upon and/or hereafter to be constructed on said subject properties.
- (e) The issuance of any building permits by the Town of Hurley shall be made contingent upon the completion of any improvements to the right-of-way necessary to achieve such purposes.

2. Grant of Right-of-Way

It is the intention of the parties hereto that each of the subject properties referred to herein shall have a permanent easement and right-of-way for purposes of ingress, egress and regress over, across and through the fifty foot (50') wide private right-of-way known as Shultis Lane and for the purposes of the installation, operation, repair, protection, improvement and maintenance of common utility service lines for ordinary residential uses. The location of said easement and right-of-way shall be as shown on said subdivision map and as described in the description attached hereto as Schedule A.

3 Maintenance, Snow Removal and Other Work

The owner(s) of each of the subject properties shall be and is/are responsible for an equal share of the cost of the following work: any necessary improvements to bring the road to be constructed upon the right-of-way into compliance with the above standards. Such responsibility shall not commence for any owner until such owner applies for a building permit or commences the construction of a residence or structure of any kind on the premises owned, including a house, modular home or other structure or placement of a mobile home or trailer whether used for seasonal or year-round residence (referred to herein as an "improved parcel"). In the event that a future date following re-subdivision there should be more than two residences on any one of the owned subject properties (other than accessory home occupations), the owner of each such residence shall pay an equal share of the foregoing costs. Snow removal cost shall be shared only by the owners of improved parcels. No party shall be required to pay the cost of capitol improvements other than those which are necessary to provide reasonably safe and passable vehicular access along the right-of-way, i.e. widening, oil and stone or paving without said owner's consent to be liable for such improvements necessary to provide reasonably safe and passable vehicular access. Notwithstanding anything to the contrary, once a building permit has been issued for any structure on any of the subject properties, it is understood and agreed that the road to be constructed upon the right-of-way shall be maintained in a good and passable condition at all times and under all traffic and weather conditions. If any owner or that owner's family, guests, employees, invitees or agents shall cause damage to the road through misuse or otherwise, i.e. running of heavy trucks or equipment on the road which causes ruts during wet weather or other damage, that owner shall be solely responsible for the costs of any necessary repairs.

4 Meetings

The owners of the subject properties shall have a regular meetings on a reasonable notice to select and maintain a Committee of persons who shall arrange for the work contemplated herein to be performed, to collect the necessary funds from all owners of subject properties, to consult with the owners as may be required and to notify the owners of future meetings. Any notice, bill or other communication made under to this Agreement shall be either (a) personally served, or (b) sent to owner by registered or certified mail, properly addressed and postage prepaid, at the address of the affected lot as shown in the most recent Town tax rolls.

5. Lien

Each Owner, by signing this Agreement, does covenant and agree to pay, within thirty (30) days after the date of notice of an assessment. Each assessment, together with interest in amounts or at rates specified by the Owners of the subject properties together with cost of collection, shall be a lien and charge upon the subject property against which said such assessment is made and such lien shall continue until the assessment is paid and shall be the personal obligation of the Owner. The personal obligation of the Owner to pay such assessments, however, shall remain the personal obligation of the person who was the Owner when the assessment was first due and shall not pass to successors in title unless expressly assumed by such successors.

6 Enforcement

If any owner responsible for contributing to the costs of the maintenance, repair, snow removal or other work shall fail to do so, the other owner or owners may maintain an action in any court having competent jurisdiction to enforce the terms of this Agreement and/or collect any sums which may be due which shall be granted to the prevailing party together with statutory interest, reasonable attorneys' fees of such an action and court costs. To the maximum extent permissible, each owner of a property made subject to this Agreement agrees that defaulting owners shall not be responsible to each other for punitive, exemplary, consequential or indirect damages caused by an owner's failure to contribute to repair damage.

7 Subordination

The lien of the assessments provided for shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the subject properties. Such subordination, however, shall apply only to the assessments which have become due and payable prior to a sale or transfer of a subject properties pursuant to any allowable method of foreclosure, or any other proceeding in lieu of foreclosure. Upon the request of any Owner of one or more of the subject properties, the treasurer of the Committee hereinabove referred to in paragraph 4 shall issue such certificates as are necessary to indicate the status of the assessments. Such sale or transfer shall not discharge the lien of any assessment thereafter becoming due after the date of any such sale or transfer. The lien of the assessments also shall be subordinate to all utility easements which may be placed upon any of the subject properties.

8 Benefit

This Agreement relates solely to and is for the benefit of the owners of lands comprising the aforesaid subject properties and not the general public. It may also be enforced by the Town of Hurley although the Town shall have no obligation to do so. Each Owner shall be responsible for his/her or its own homeowner's and liability insurance which may be desired or appropriate to cover each of the subject properties and that Owner's interest in the right-of-way.

9. Binding Effect

This Agreement shall be binding upon the heirs, successors and assigns of the parties hereto and shall run with the land as to the aforesaid subject properties shown on the Subdivision Map. In the event that a Homeowner's Association (the "Homeowner's Association") assumes said responsibilities as indicated by an Agreement executed by said Homeowner's Association and the then owners of record of the properties which are subject to the Agreement, such Agreement shall be recorded in the Office of the Ulster County Clerk and shall be cross-indexed against this Agreement and shall supersede it

10. Private Right-of-Way Status

It is the intention of the parties that the right-of-way in question remain a private right-of-way and the Town of Hurley shall have no liability for the care and maintenance of same.

11. Miscellaneous

The captions herein are inserted for convenience and do not affect the contents of the sections of this Agreement. This Agreement is severable. In the event that any term or provision hereof is finally determined by a Court of competent jurisdiction to be invalid, such determination shall not affect the balance of this Agreement which shall continue to be in full force and effect.

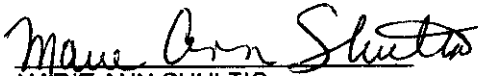
12. Amendment

Except as hereinabove set forth in paragraph 9 regarding a "Homeowners Association", amendment of this Agreement shall require the written consent of the Owners of 75% of the subject properties and any such amendment(s) shall be recorded in the Ulster County Clerk's Office.

by: Marie Ann Shultis
MARIE ANN SHULTIS
Lenore Lefebvre
LENORE LEFEBVRE

STATE OF NEW YORK)
) ss:
COUNTY OF ULSTER)

On this 1 day of Nov., 2005 before me, the undersigned, a Notary Public in and for said State, personally appeared MARIE ANN SHULTIS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same and in her capacity, and that by her signature on this instrument, the individual, or person on behalf of which the individual acted, executed the instrument


MARIE ANN SHULTIS

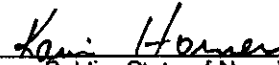

Notary Public, State of New York

KARIN HORNER
Notary Public, State Of New York
No. 4931605
Qualified In Ulster County
Commission Expires May 31, 2006

STATE OF NEW YORK)
) ss:
COUNTY OF ULSTER)

On this 1 day of Nov., 2005 before me, the undersigned, a Notary Public in and for said State, personally appeared LENORE LEFEBVRE, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same and in her capacity, and that by her signature on this instrument, the individual, or person on behalf of which the individual acted, executed the instrument.


LENORE LEFEBVRE


Notary Public, State of New York

KARIN HORNER
Notary Public, State Of New York
No. 4931605
Qualified In Ulster County
Commission Expires May 31, 2006

SCHEDULE "A"

DESCRIPTIVE BOUNDARY
OF 50-FOOT RIGHT-OF-WAY
KNOWN AS SHULTIS LANE

DESCRIBES: ALL THAT CERTAIN PIECE OR PARCEL OF LAND KNOWN AS SHULTIS LANE, running southerly from Brucken Road, Town of Hurley, County of Ulster and State of New York and being more particularly bounded and described as follows:

BEGINNING at a point marked by a set railroad spike in the center of Brucken Road, said point being the northerly corner of lands of Maria Ann Shultis and being distant 1325.26 feet on a course of South 17 degrees, 19' 30" East from a point marked by a found end of a stonewall at the bounds of Great Lots 7 and 8 of the Hurley Patentee Woods; thence South 17 degrees, 19' 30" East along the bounds of lands now or formerly of Henry Gross et. al. as described in Liber 1835, page 255, passing through a set rebar at 25.00 feet and continuing for a total distance of 1217.47 feet to a point marked by a found pile of stones at the northwest corner of other lands of Marie Ann Shultis as described in Liber 2907, page 144; thence on a curve to the right, having a radius of 60.00 feet, a central angle of 310 degrees, 45' 05" and a chord bearing and distance of South 72 degrees, 41' 20" West, 50.00 feet, for a distance of 325.218 feet to a point marked by a set rebar; thence North 17 degrees, 19' 30" West along the bounds of Lot 2 of a subdivision of lands of Marie Ann Shultis to be filed with the Ulster County Clerk for a distance of 398.59 feet to a point marked by a set rebar at the most northerly corner of said Lot 2; thence North 17 degrees, 19' 30" West along the bounds of Lot 1 of said subdivision for a distance of 600.36 feet to a point; thence North 17 degrees, 19' 30" West along the bounds of lands claimed by McCafferty per liber 1317, page 873 for a distance of 111.67 feet to a point; thence North 17 degrees, 19' 20" West through the lands of Lot 3 being remaining lands of Shultis for a distance of 83.03 feet to a point in the center of said Brucken Road; thence North 47 degrees, 13' 10" East along the center of said Brucken Road for a distance of 55.38 feet to the point and place of beginning.

BEARINGS are with reference to Magnetic North of July 1986 as determined by Bert C. Winne III, L.L.S. P.O. Box 15, Shokan, N.Y. 12481.