

TRUSTEES OF ARDEN
2111 Orleans Rd., Arden
WILMINGTON, DELAWARE 19810

*Copy - Access Agreement between Village
& the 2 NCC. lots bordering Meadow Lane.
12/8/83.*

JAR/bs - 12/7/83

ACCESS AGREEMENT AND
DECLARATION OF RESTRICTIONS

MADE THIS ^{8th} day of December, 1983, by THE VILLAGE OF ARDEN, an incorporated municipality of the State of Delaware, and the TRUSTEES OF ARDEN, parties of the first part, and EDWARD J. KELLY, KATHERINE D. KELLY and RUTH G. DOLMETSCH, parties of the second part.

WHEREAS, the parties of the second part are the record owners of that certain 2.87 acre lot, piece or parcel of land situate in Brandywine Hundred, New Castle County, State of Delaware, shown as Lots 1 through 6 on the Record Minor Resub-division Plan of Lands of Edward J. Kelly, Katherine D. Kelly, and Ruth G. Dolmetsch, prepared by Karins and Associates, Inc., Consulting Engineers, said Record Minor Subdivision Plan being recorded at the Office of the Recorder of Deeds in and for New Castle County, Delaware, in Microfilm No. 6978; and

WHEREAS, the parties of the second part desire access for Lots 3 and 6 of their Subdivision onto that public road owned by Village of Arden known as Meadow Road (sometimes known as Meadow Lane); and

WHEREAS, the parties hereto recognize and acknowledge that additional vehicular traffic on Meadow Road may create increased safety hazards to pedestrians and vehicles traveling upon Meadow Road and that the Village of Arden will incur additional expense for road maintenance and repair as a result of increased use of Meadow Road; and

WHEREAS, the parties hereto agree that the following terms and conditions are reasonably required in order to minimize any increased safety hazards which users of Meadow Road may experience and in order to share equitably the additional financial burden which the Village of Arden will incur as a

result of access to Meadow Road which the parties of the second part, their heirs, successors and assigns will enjoy.

NOW THEREFORE WITNESSETH, that for and in consideration of the sum of ONE (\$1.00) DOLLAR and other good and valuable consideration in hand paid by the parties of the second part unto the parties of the first part, the receipt and sufficiency whereof are hereby acknowledged, the parties hereto agree to the following terms, conditions, restrictions and undertakings which shall be real covenants running with the land and shall be binding upon the parties hereto, their successors and assigns:

1. The parties of the first part hereby grant to the parties of the second part, their successors and assigns, right of ingress, egress and regress over and upon Meadow Road, the right to construct and maintain a curb cut for a driveway from Lot 3 and a driveway from Lot 6 exiting onto Meadow Road, and an easement to cross unpaved portions of the right-of-way of Meadow Road and other lands of the Village of Arden or the Trustees of Arden (who are signatories hereto for this purpose) to construct, maintain, repair and replace said driveways and to use said driveways for purposes of ingress, egress and regress over and upon Meadow Road, subject to the following terms and conditions:

(a) No structure (except as hereinafter mentioned) shall be erected, placed or permitted to remain on either lot other than the type of residential dwelling and structures appurtenant thereto permitted by the zoning classification of the Zoning Code of New Castle County applicable to each lot on the date of this Agreement.

(b) No trade, business, commerce, industry or occupation shall be conducted on either lot or in any structure erected thereon, including, without limitation, even those that may be incidental or appurtenant to the residential use thereof

by any persons residing in a dwelling unit on the premises, notwithstanding the same would be permitted under the Zoning Code of New Castle County.

(c) Both the driveway to be constructed to serve Lot 3 and the driveway to be constructed to serve Lot 6 shall be constructed and maintained at the sole expense of the parties of the second part, their successors and assigns.

(d) Neither driveway shall be used to service other than a single-family dwelling erected on Lot 3 and a single-family dwelling erected on Lot 6.

(e) The curb cut for Lot 3 and the curb cut for Lot 6 shall each be limited to a driveway to service a single-family dwelling on each lot.

(f) The driveway and access to Meadow Road provided for each lot hereunder shall be used and enjoyed only by the owners and occupants of each respective lot and their invitees.

(g) The driveway and all other improvements on each lot shall be so constructed as to provide parking within the boundaries of the lot for all motor vehicles used by the occupants of the lot. No motor vehicle owned or used by any occupant or invitee of an occupant of a lot shall be parked within any portion of the Meadow Road right-of-way.

(h) The owner or owners of each lot shall maintain all unpaved ground between the paved portion of Meadow Road and the lot line.

(i) The owner or owners of each lot shall maintain such lot and all improvements therein and thereon in good order and repair and free of debris, including, but not limited to, the seeding, watering and mowing of all lawns, the pruning

and cutting of all trees and shrubbery, and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management.

(j) The owner or owners of each lot shall install at their sole expense any necessary asphalt or concrete apron connecting the edge of the paved portion of Meadow Road with the driveway on each lot, said asphalt or concrete apron to be of a width, design and construction approved by the Village of Arden Civic Committee. The maintenance, repair and replacement of said aprons, thereafter, shall be part of the budget of the Village of Arden for road repair and paid out of funds available therefor.

(k) Upon conveyance of each of Lot 3 and Lot 6 by the parties of the second part, the parties of the second part shall pay \$500 to the Village of Arden (a total of \$1,000) as a one-time fee for the right to construct the curb cut for the driveway to each such lot.

(l) Each owner of Lot 3 and each owner of Lot 6, by acceptance of a deed therefor, obligates and binds himself, his heirs, successors and assigns, and is deemed to covenant and agree to pay to the Village of Arden an Annual Access Rent due March 25 of each year based upon his pro rata share of the Village of Arden's budget for:

(i) road repair, maintenance and snow removal;

(ii) garbage and trash removal (so long as the budget of the Village of Arden includes payment for such services for Lot 3 and Lot 6 and such services are provided);

- (iii) special clean-ups; and
- (iv) Village of Arden Safety Committee expenses for road signs and enforcement of road regulations and Village Ordinances relating thereto.

The annual budget for these items will be prorated based on the number of Village of Arden leaseholds (presently 192) plus the number of non-Village of Arden lots having access to Meadow Road. Thus, by way of example based upon present circumstances:

The Annual Access Rent for each lot will be based on a factor of .00515, which is derived from a proration of the number of present Village of Arden leaseholds (192) plus Lot 3 and Lot 6. The .00515 factor multiplied by the Village of Arden's budget expenses for the four listed categories will be the Annual Access Rent for each lot.

The first payment for each lot will be prorated from the date when curb cut construction commences to the following March 25 and will be due thirty (30) days following commencement of curb cut construction. Thereafter, the Annual Access Rent for each lot shall be paid on or before March 25 for the ensuing twelve (12) months.

(m) All sums due and payable to the Village of Arden under the terms of this Agreement which are not paid when due shall bear interest from the date of delinquency at the rate of 12% per annum, and the Village of Arden shall be entitled to a monthly billing charge of \$10.00 until all delinquent sums are paid. The Village of Arden may bring an action at law against the owner or owners obligated to pay the charge or

foreclose the lien against the lot, and interest, costs and reasonable attorneys' fees of any such action shall be added to the principal amount due. No owner or owners may waive or otherwise escape liability for the sums due to the Village of Arden hereunder by the non-use of the driveway or abandonment of his lot.

(n) It is expressly agreed that all sums due to the Village of Arden referred to above shall be a lien or encumbrance on the lot with respect to which the obligation is incurred and it is expressly agreed that, by acceptance of title to the lot, the owner shall be held to have covenanted and agreed to pay all sums then or thereafter due to the Village of Arden under the terms hereof.

(o) The sums due to the Village of Arden hereunder shall be subordinate in lien to the lien of any mortgage or mortgages on each lot which is subject to such charges regardless of when said mortgage or mortgages were created or when such charges accrued; provided that such subordination shall apply only to charges that shall have become payable prior to the passing of title under foreclosure of such mortgage or mortgages, and the transferees shall not be liable for payment of any charges accruing prior to said foreclosure, but nothing herein shall be held to affect the rights herein given to enforce the collection of such charges accruing after sale under foreclosure of such mortgages or mortgage; and provided, further, that such charges accruing after sale shall also be subordinate in lien to the lien of any further mortgage or mortgages which are placed on property subject to such charges, with the intent that no such charges shall at any time be prior in lien of any mortgage or mortgages whatsoever on such property.

2. The Village of Arden shall have the right to enforce by any proceeding in law or in equity all provisions of this Agreement and all obligations imposed hereunder upon the parties of the second part, their successors and assigns. Failure to enforce any provision herein contained or obligation created hereby shall in no event be deemed a waiver of the right to do so thereafter or the right to do so with respect to a breach of any other provision or obligation.

3. Invalidation of any one of these provisions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

4. Whether expressly referred to or not, this Agreement shall be deemed to be incorporated in each and every deed of conveyance of Lot 3 and Lot 6.

5. This Agreement shall bind and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first above written.

THE VILLAGE OF ARDEN

By William C. Press Jr
Chairman

Attest Janet L. Hamilton
Secretary

THE TRUSTEES OF THE VILLAGE OF ARDEN

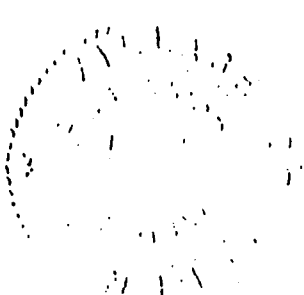
By Carl Scherer (SEAL)

By Frank Shadstone (SEAL)

Edward J. Kelly (SEAL)
Edward J. Kelly

Katherine D. Kelly (SEAL)
Katherine D. Kelly

[Signature] (SEAL)
[Signature]



[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

STATE OF DELAWARE)
) SS.
NEW CASTLE COUNTY)

BE IT REMEMBERED, that on this 8th day of December, 1983, personally came before me, the subscriber, a Notary Public for the State of Delaware, WILLIAM C. PRESS, JR., Chairman of The Village of Arden, an incorporated municipality existing under the laws of the State of Delaware, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed and the act and deed of said municipality, that the signature of the Chairman thereto is in his own proper handwriting and the seal affixed is the seal of said municipality, and that his act of sealing, executing, acknowledging and delivering said Indenture was duly authorized by a resolution of the Town Assembly.

GIVEN under my hand and seal of office, the day and year aforesaid.

Katherine A. Brown 12/8/83
Notary Public

STATE OF DELAWARE)
) SS.
NEW CASTLE COUNTY)

BE IT REMEMBERED, that on this 8th day of December, 1983, personally came before me, the subscriber, a Notary Public for the State of Delaware, CECIL LIBERMAN and SHAUL GLADSTONE, Trustees of the Village of Arden, parties to this Indenture, known to me personally to be such, and severally acknowledged this Indenture to be their act and deed.

GIVEN under my hand and seal of office, the day and year aforesaid.

Katherine A. Brown 12/8/83
Notary Public

STATE OF DELAWARE)
) SS.
NEW CASTLE COUNTY)

BE IT REMEMBERED, that on this 8th day of December, 1983, personally came before me, the subscriber, a Notary Public for the State of Delaware, EDWARD J. KELLY, KATHERINE D. KELLY and RUTH G. DOLMETSCH, parties to the Indenture, known to me personally to be such, and severally acknowledged this Indenture to be their act and deed.

GIVEN under my hand and seal of office, the day and year aforesaid.

Katherine A. Brown 12/8/83
Notary Public