

36904

AMENDED DECLARATION OF EASEMENTS AND RESTRICTIONS  
FALCONWOOD SUBDIVISION

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WHEREAS, by Contract of Sale, dated the 21st day of November, 1982, L & L Corporation, a Virginia Corporation, agreed to purchase the remaining portion of that certain subdivision known as "Falconwood", situate in Bloomery District of Hampshire County, West Virginia, and which Sales Contract was satisfied by the delivery of a Deed from the then owners of Falconwood Subdivision to L & L Corporation, which Deed is dated the 4th day of May, 1983; and,

WHEREAS, at the time of the making of the Contract of Sale and at the time of the delivery of the Deed as aforesaid, Falconwood Subdivision was subject to a Declaration of Easements and Restrictions, of record in the Office of the Clerk of the County Commission of Hampshire County, West Virginia, in Deed Book 258, at Page 767; and,

WHEREAS, the aforesaid Declaration of Easements and Restrictions provided that the Declaration may not be amended except by the execution of an instrument signed by the owners of at least sixty-five percent (65%) of the lots in "Falconwood", which instrument shall be filed among the land records of Hampshire County, West Virginia; and,

WHEREAS, the owners of Lot # 18 of Falconwood Subdivision, namely, Harwell C. Heishman and Barbara A. Heishman; the owners of Lot # 24 of Falconwood Subdivision, namely, Wyatt H. Poff and Viola P. Poff; the owners of Lot # 17 of Falconwood Subdivision, namely, James R. Daugherty and Linda S. Daugherty; the owners of Lot # 2 of Falconwood Subdivision, namely, William G. Smith and Gary A. Payne; the owners of Lot # 20 of Falconwood Subdivision, namely, Stewart Shoemaker and Virginia Hott; and L & L Corporation, a Virginia Corporation, by its duly authorized Officer, P. Owen

Lanier, II, President of said Corporation, being the owner of lots # 1, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 19, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, and 59 representing and constituting more than sixty-five percent (65%) of the lots in Falconwood Subdivision, entered into an agreement to amend and change the aforesaid Declaration of Easements and Restrictions of Falconwood Subdivision and appointed David Serfaty their Attorney in Fact, by delegating their special Power of Attorney, designated as "proxy". Also David Serfaty and Mary Serfaty, the equitable owners of Lot # 38 of Falconwood Subdivision also enter into this Amended Declaration of Easements and Restrictions in their own individual capacities by their "proxy" and in this regard, David Serfaty joins in the execution of this Amended Declaration of Easements and Restrictions of Falconwood Subdivision in his individual capacity in addition to his capacity as Attorney in Fact for the aforesaid lot owners, including his wife, Mary Serfaty. The aforesaid special Power of Attorney designating and agreeing to the Amended Declaration of Easements and Restrictions of Falconwood Subdivision contained herein, is attached hereto and made a part hereof as seven (7) separate "proxies."

NOW THEREFORE WITNESSETH that the Declaration of Easements and Restrictions of Falconwood Subdivision are Amended and shall hereafter be as follows:

All conveyances shall be made subject to the following easements and restrictive covenants, which easements and covenants are to run with the land:

1. Each OWNER of a lot, except numbered 8 through 16 shown on the "FALCONWOOD" Subdivision Plat, (being those lots which front on Hampshire Route 29/1, also known as "Pin Oak Road"), shall

have an easement over and upon the existing roadway running through "FALCONWOOD" in the fifty (50) foot wide right of way provided therefor, depicted on the aforesaid Subdivision Plat of "FALCONWOOD" for ingress and egress to and from the lots fronting thereon and West Virginia Route 29, to be used in common with all such OWNERS.

2. Any maintenance, repair and reconstruction of the aforesaid roadway shall be performed on a continuing basis, and each OWNER, (except as to Owners of lots numbered 8 through 16), shall contribute on an equal basis to the costs of such maintenance, repair and reconstruction, promptly upon receipt of an assessment therefor. Said roadway maintenance, however, shall not exceed \$35.00 annually, payable to an Owners Association, which shall account for any and all income and expenditures.

2A. The DEVELOPERS reserve unto themselves, their successors and/or assigns, an easement or right of way over, under and through fifteen (15) foot wide strip of land paralleling each side of the aforesaid roadway and paralleling all side and real lot boundary lines; as depicted on the aforesaid Plat of "FALCONWOOD", for the purpose of installing, erecting and maintaining telephone, TV cable and electric poles, lines, wires and associated equipment, as well as conduits and pipes for sewer, gas, water and storm drains.

3. Any lot in "FALCONWOOD" Subdivision may be subdivided of record one (1) time, so long as each half so subdivided is not less than two (2) acres in size.

4. That no commercial or business of any type is permitted on any lot; that residential structures of a permanent nature, including mobile homes and double wides which are by foundation or basement construction made a part of the real estate, are permitted, The foregoing restriction shall not apply to licensed recreational and camper vehicles. Further, any mobile home or double wides must be maintained in excellent condition and appearance. No trucks, buses, old cars or unsightly vehicles of any type or description may be left, stored or abandoned on any lot.

4A. Notwithstanding paragraph 4, above, no house trailers will be allowed on any lot in Falconwood which fronts or borders on Falconwood Road or Mountaintop Road. This prohibition applies to all lots sold after June 30, 1983.

5. Sewerage and waste systems constructed on any lot shall conform to all applicable regulations of Hampshire County and the State of West Virginia.

6. No structure of any kind shall be built within twenty-five (25) feet of any side or rear property lines nor within twenty-five (25) feet of the property line fronting on the aforesaid roadway as depicted on the aforesaid Plat of "FALCONWOOD."

7. No driveway leading from the aforesaid roadway servicing "FALCONWOOD" may be constructed in such a manner as to impede the function of the road drainage ditches. For any driveway crossing a road drainage ditch, a culvert with a minimum diameter of twelve (12) inches must be used in the fashion to insure adequate water flow along the road drainage ditches.

8. The determination by a Court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

9. That the OWNER of any lot, his heirs and assigns, may not market commercially the timber on the land herein conveyed and that only such timber may be cut as would be needed so as to permit the OWNER, his heirs and assigns, to enjoy the full use and benefit of the real estate herein conveyed.

10. These Restrictions shall apply only to the lots as shown on the aforesaid Plat of "FALCONWOOD" and shall not be binding on or have any application whatsoever to any other property of the DEVELOPERS, their successors and assigns.

11. All the provisions set forth herein shall be deemed covenants running with the land and/or charges and liens upon the land and any and every conveyance of any lot in "FALCONWOOD" shall be absolutely subject to the provisions hereof whether or not it

shall be so expressed in the Deed, Lease or other conveyance thereof.

12. The restrictions provided for above shall inure to the benefit of and shall be enforceable by the DEVELOPERS, any ASSOCIATION formed and the OWNER of any lot, their respective personal representatives, heirs, successors and assigns, until the 31st day of December, in the year 1999. Prior to December 31, 1999, this Declaration may not be amended in any respect except by the execution of an instrument signed by the OWNERS of at least sixty-five percent (65%) of the lots in "FALCONWOOD", which instrument shall be filed among the Land Records of Hampshire County.

WITNESS the following signatures and seals:

STATE OF FLORIDA,

COUNTY OF DADE, TO WIT:

The undersigned, being duly sworn, says as follows:  
That the within Amended Declaration of Easements and Restrictions shall be reference be incorporated in and made a part of all Deeds executed by L & L Corporation, a Virginia Corporation, their respective successors and assigns, for lots designated and situate within "FALCONWOOD" Subdivision; that the same shall be and constitute covenants to run with the land.

Harwell C. Heishman (SEAL)  
HARWELL C. HEISHMAN,  
by David Serfaty,  
Attorney in Fact

Barbara A. Heishman (SEAL)  
BARBARA A. HEISHMAN,  
by David Serfaty,  
Attorney in Fact

Wyatt H. Poff (SEAL)  
WYATT H. POFF,  
by David Serfaty,  
Attorney in Fact

Viola P. Poff (SEAL)  
VIOLA P. POFF,  
by David Serfaty,  
Attorney in Fact

James R. Daugherty (SEAL)  
JAMES R. DAUGHERTY,  
by David Serfaty,  
Attorney in Fact

Linda S. Daugherty (SEAL)  
LINDA S. DAUGHERTY,  
by David Serfaty,  
Attorney in Fact

William G. Smith (SEAL)  
WILLIAM G. SMITH,  
by David Serfaty,  
Attorney in Fact

Gary A. Payne (SEAL)  
GARY A. PAYNE,  
by David Serfaty,  
Attorney in Fact

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Stewart Shoemaker (SEAL)  
STEWART SHOEMAKER,  
by David Serfaty,  
Attorney in Fact

Virginia Hott (SEAL)  
VIRGINIA HOTT,  
by David Serfaty,  
Attorney in Fact

L & L Corporation (SEAL)  
L & L CORPORATION, a Virginia Corporation,  
by David Serfaty, Attorney in Fact

Mary Serfaty (SEAL)  
MARY SERFATY,  
by David Serfaty,  
Attorney in Fact

David Serfaty (SEAL)  
DAVID SERFATY,  
in his Individual Capacity

STATE OF FLORIDA,

COUNTY OF DADE, TO WIT:

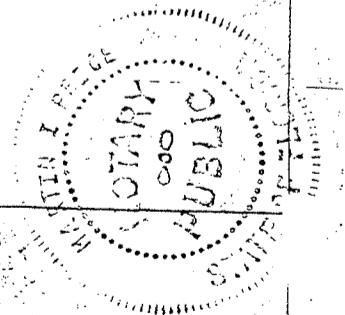
I, MARTIN PRICE, a Notary Public, in  
and for the County and State aforesaid, do hereby certify that  
David Serfaty, as Attorney in Fact for Harwell C. Heishman, Barbara  
A. Heishman, Wyatt H. Poff, Viola P. Poff, James R. Daugherty,  
Linda S. Daugherty, William G. Smith, Gary A. Payne, Stewart  
Shoemaker, Virginia Hott, L & L Corporation, a Virginia Corporation,  
Mary Serfaty, and David Serfaty, in his individual capacity, has  
signed the foregoing and annexed writing and has this day acknow-  
ledged the same before me in my said County and State.

Given under my hand this 15 day of JULY, 1983.

My commission expires:

Nov 8, 1986

Martin Price  
NOTARY PUBLIC



ROYCE B. SAVILLE  
ATTORNEY AT LAW  
ROMNEY, W. VA. 26757

THIS INSTRUMENT PREPARED BY ROYCE B. SAVILLE,  
ATTORNEY AT LAW, ROMNEY, WEST VIRGINIA

26757

STATE OF WEST VIRGINIA, County of Hampshire, to-wit:

Be it remembered that on the 6th day of September, 1983, at 3:46 P M.,  
this Amended Declaration of Essements was presented in the Clerk's Office of the County Commission of said County  
and with the certificate thereof annexed, admitted to record.

Attest

Nancy C. Jeller  
County Commission, Hampshire County, W. Va.