

LIBER 0073 FOLIO 317

ROAD ASSOCIATION AGREEMENT

THIS ROAD ASSOCIATION AGREEMENT is made as of this 15th day of December, 1994, by and between OGDEN W. KELLOGG-SMITH of Anne Arundel County, Maryland, hereinafter "Kellogg-Smith" and RICHARD WALTON BLOHM and BARBARA HATHAWAY BLOHM, husband and wife, of Kent County, Maryland, hereinafter "Blohm".

RECITALS

WHEREAS Kellogg-Smith is the owner of a parcel of land situate, lying and being in the Seventh Election District of Kent County, Maryland, containing approximately 55.293 acres, having acquired the same by virtue of a deed from Margaret Kellogg-Smith, dated February 28, 1967, recorded among the Land Records for Kent County, Maryland in Liber E.H.P. No. 21, Folio 695; and,

WHEREAS Blohm is the owner of a contiguous parcel of land containing now approximately 55.513 acres of land, having acquired the same by virtue of a deed from Margaret S. Kellogg-Smith dated February 28, 1967, recorded among the aforesaid Land Records in Liber E.H.P. No. 21, page 697; and,

WHEREAS these two parcels of land lying on both sides of Johnstontown Road are depicted on a plat entitled "Plat of a Survey of the Blohm and Kellogg-Smith Farms, Seventh District, Kent County, Maryland dated January, 1989 prepared by William R. Nuttle, Registered Surveyor, duly recorded among the Plat Records for Kent County, Maryland in Plat Book E.H.P. No. 2, folio 320; the boundary lines of which were accepted by the parties in accordance with an agreement dated August 12, 1989 recorded among the aforesaid Land Records in Liber E.H.P. No. 283, page 224; and,

WHEREAS each property is subject to a Deed of Easement to the State of Maryland, to the use of the Maryland Agriculture Land Preservation Foundation of the Department of Agriculture, the Kellogg-Smith Easement being recorded in Liber E.H.P. No. 283,

KENT COUNTY
CIRCUIT COURT

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RECORDED
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FEB 8 1995

BY
RASH, WRIGHT
& WOOLTON
COUNTY CLERK

3/10/95 - Returned to Rash, Wright & Woolton, Chestersburg MD 21620

LIBER 0073 FOLIO 318

page 227 and the Blohm Easement being recorded in Liber E.R.P. No. 283, page 237; and,

WHEREAS each of the parties has decided to subdivide their property; Kellogg-Smith in accordance with a Minor Subdivision Plat of the Ogden W. Kellogg-Smith lands dated October, 1993 and Blohm in accordance with a Minor Subdivision Plat of Richard W. Blohm lands dated August, 1993, both plats being prepared by William R. Nuttle, Registered Surveyor and intended to be recorded among the Land Records herewith; and,

WHEREAS each of the subdivided parcels is served by a fifty (50) foot right-of-way and the two right-of-ways converge into a single right-of-way entering onto Johnstontown Road, all as is more apparent by reference to the aforesaid two minor subdivision plats; and,

WHEREAS the parties hereto wish to determine the rights of usage and to create a mechanism for fairly determining and allocating the costs of maintenance and repair of the aforesaid rights-of-way among themselves.

NOW THEREFORE THIS AGREEMENT WITNESSETH, that in consideration of the premises, the mutual covenants contained herein and other good and valuable consideration, the parties hereto agree as follows:

1. Kellogg-Smith does hereby grant unto Blohm, their heirs, personal representatives and assigns, the right to make use of the fifty (50) foot wide right-of-way running over the land of Kellogg-Smith from Johnstontown Road to the Blohm lands as shown on the aforesaid plat. Said right shall include the right of ingress and egress by vehicle or on foot and to construct utilities in or upon the aforesaid right-of-way.

2. Definitions. The following phrases have the given meanings.

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P. O. BOX 200
CHRISTOPHER, MISSOURI 65026
417-776-2500

3. Road Standard. From and after the date hereof, except as otherwise expressly provided herein, the road standard shall be the bench mark by which future maintenance and repair of the right-of-way shall be determined.

4. Ordinary Maintenance and Repair.

A. Each owner hereby agrees to pay his pro rata share of the necessary maintenance and repair costs to maintain the right-of-way up to the road standard.

B. Whenever possible, the parties desire that the determination and payment of the respective pro rata share costs be made voluntarily, without the necessity of a meeting of the Kellogg-Smith/Blohm association. Accordingly, if any owner (the "requesting owner") believes that ordinary maintenance and repair measures are necessary (the "requested maintenance repair"), he shall determine the costs of such measures and shall send a statement of the pro rata shares to each of the other owners to accomplish the requested maintenance and repair (the "Owners' Notice").

C. Upon receipt of payment of all the requested pro rata shares the requesting owner shall proceed with having the requested maintenance and repair completed.

D. In the event that any owner objects to the requested maintenance and repair or fails to pay his pro rata share within thirty (30) days after the owners' notice, then any two (2) owners shall have the right to convene a meeting of the association by notifying all owners of the time, date and place (in Kent County, Maryland) and reason for the association meeting, provided that such meeting shall be held not less than thirty (30) days after the meeting notice.

5. Meetings. The Kellogg-Smith/Blohm Road Association meetings shall be conducted as prescribed in Robert's Rules of Order, subject to the following:

A. In any meeting of the association, the presence of any two owners, in person or by proxy shall constitute a quorum.

B. Each owner shall have one (1) vote per lot owned.

C. The decision of a majority of votes cast at the meeting shall be binding, except as otherwise provided herein.

D. Any owner/member shall be entitled to vote by proxy, either written or by a delegated representative.

E. Subject to the terms of this agreement, the association shall have the right to take all necessary actions to further its purposes, including but not limited to the right to assess annual dues earmarked for the ordinary maintenance and repair of the right-of-way, the right to elect officers and delegate responsibilities and the right to enforce this agreement.

RASIN, WRIGHT
& WOOLTON
ATTORNEYS AT LAW
1000 EASTERN MARLBOROUGH ROAD
ANNAPOLIS, MARYLAND 21403
410-293-1100

6. **Excessive Use.** Any owner who uses the right-of-way excessively shall be responsible for the resulting necessary maintenance and repair to maintain the road standard. In the event that the owner using the right-of-way excessively does not voluntarily repair and maintain the road standard any two (2) or more other owners shall have the right to convene a meeting of the association as described in Section 5, in which case a decision of the majority of the owner votes cast at such meeting concerning whether or not there has been excessive use and the imposition of necessary cost to maintain the road standard shall be binding. Notwithstanding anything to the contrary, the use of the right-of-way for construction of a residence on a property shall not necessarily be considered excessive use.

7. **Assessments.** All assessments imposed by the Association shall be due and payable within thirty (30) days after billing. Assessments which are overdue shall bear interest at the rate of one (1%) percent for each thirty (30) day period or portion thereof after due. All assessments shall be binding and enforceable against the assessed owner and his property and shall constitute a lien against such property until paid in full.

8. **Real Estate Taxes and Insurance.** Unless and until the right-of-way is deeded to the association or other distinct legal entity, an owner upon whose property the right-of-way is located shall be responsible for the costs of real estate taxes for such property. Each owner shall be responsible for insuring his interest in the right-of-way in such amounts as is acceptable to such owner.

9. **Miscellaneous.**

A. Any owner shall be permitted to upgrade the right-of-way beyond the road standard at such owner's cost but such upgrading shall not change the road standard as defined in this agreement.

B. If an owner desires that the right-of-way be publicly dedicated to the state or county, all owners shall consent to such public dedication unless opposition to such public dedication is

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403-775-2000

agreed by an affirmative seventy-five (75%) percent vote of the owners at a duly convened meeting of the owners.

C. This agreement can only be amended with the affirmative consent of seventy-five (75%) percent of all owners.

D. Snow removal shall not be deemed ordinary maintenance and repair, so that any owner desiring snow removal shall secure it at such owner's cost.

E. The provisions of this agreement shall run with the land and shall be binding upon and inure to the benefit of the parties and their respective heirs, personal representatives, successors and assigns.

F. Time is of the essence in this agreement.

WITNESS:

<u>Alexander Larson</u>	<u>Ogden W. Kellogg-Smith</u> [SEAL] Ogden W. Kellogg-Smith
<u>Alexander Larson</u>	<u>Richard Walton Blohm</u> [SEAL] Richard Walton Blohm
<u>Alexander Larson</u>	<u>Barbara Hathaway Blohm</u> [SEAL] Barbara Hathaway Blohm

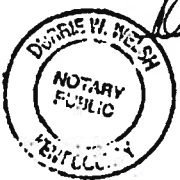
STATE OF Maryland, COUNTY OF Kent, to wit:

I HEREBY CERTIFY, that on this 15th day of November, 1994, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Ogden W. Kellogg-Smith, Richard Walton Blohm and Barbara Hathaway Blohm known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and Official Seal.

My Commission expires July 1, 1995

Debbie W. Welsh
Notary Public



100-1110
RASIN WRIGHT
& WENTON
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5/18/95 THE FOREGOING AGMT FILED
FOR RECORD AND IS ACCORDINGLY RECORDED AMONG
THE LAND RECORDS OF KENT COUNTY, MARYLAND, IN
LIBER MLM, NO. 73 FOLIOS 217-231
Theresa Thompson CLERK

A. "Right-of-Way": The fifty (50) foot wide road running from Johnstontown Road to Lots 1 and 2 of the Kellogg-Smith property and the fifty (50) foot wide road running from the aforesaid road southeasterly across the lands of Kellogg-Smith to the lands of Blohm and turning southwesterly to connect to Lots 2 and 3 as shown on the Blohm subdivision plat.

B. "Road Standard": The condition of the right-of-way as it now exists; to wit, a country lane lightly graveled and approximately ten (10) feet in actual width.

C. "Owner": Kellogg-Smith and Blohm and all future owners of all or a portion of either farm lying to the South of Johnstontown Road. Initially, there are six (6) Parcels which are:

1. Lot 1 on the Kellogg-Smith subdivision
2. Lot 2 on the Kellogg-Smith subdivision
3. Remaining lands of Kellogg-Smith lying to the South of Johnstontown Road
4. Lot 2 on the Blohm subdivision plat
5. Lot 3 on the Blohm subdivision plat
6. Remaining Blohm lands lying to the South of Johnstontown Road

For the purposes hereof, there shall be only one (1) owner per lot or additional subdivided lot. For example, Richard Walton Blohm and Barbara Hathaway Blohm, as joint owners of the remaining Blohm lands, only constitute one owner.

D. "Pro Rata Share": Until any of the aforesaid lots are further subdivided the following:

Lot 1 on the Kellogg-Smith subdivision	- 12.1%
Lot 2 on the Kellogg-Smith subdivision	- 12.1%
Remaining lands of Kellogg-Smith lying to the South of Johnstontown Road	- 12.1%
Lot 2 on the Blohm subdivision plat	- 21.2%
Lot 3 on the Blohm subdivision plat	- 21.2%
Remaining Blohm lands lying to the South of Johnstontown Road	- 21.3%

E. "Kellogg-Smith/Blohm Road Association": An unincorporated property owners association, the members of which shall be the owners. All future owners of any portion of the aforesaid lots shall also automatically become members upon receipt of title. The purpose of the Kellogg-Smith/Blohm road association is to create a framework for the maintenance and repair of the right-of-way and to be a mechanism by which decisions and disputes can be determined and reconciled with respect to the terms of this agreement.

WITNESSES
 RASH WRIGHT
 & WOOTTON
 COUNTY CLERK
 KENT COUNTY, OHIO