

*EASEMENT in Sewer*

**THIS DEED OF EASEMENT** made and entered into this 11th day of April, 1995, by and between **C. CLARKE CUNNINGHAM, III, R. BRUCE CUNNINGHAM** and **WILLIAM K. CUNNINGHAM**, Grantors, parties of the first part, and **MALLARD POINT HOMEOWNERS' ASSOCIATION, INC.**, Grantee, party of the second part.

**W I T N E S S E T H:**

**THAT** for and in consideration of the sum of One Dollar (\$1.00), cash in hand paid, and other good and valuable consideration, the receipt of all of which is hereby acknowledged by the parties of the first part, the said parties of the first part do hereby grant and convey unto Mallard Point Homeowners' Association, Inc., its successors and assigns, the following described easement, to-wit:

A right-of-way over, under and across the following described tract or parcel of land belonging to the Grantors, for the purpose of installing, repairing, and maintaining sewer lines, septic tank, and distribution fields, all of which are to be installed at such depth so as not to interfere with normal farming or gardening operations, together with the right of entry for the purpose of repairing and maintaining such sewer lines, septic tank, and distribution field, to-wit:

**THAT** parcel of land adjoining the property owned by Mallard Point Homeowners' Association, Inc., on its western boundary separated only by a private road as shown on a plat entitled "Final Subdivision and Site Dimensional Plat, Mallard Point, Phase I and adjacent property, Pulaski Couty, Virginia," dated June 24, 1987, and prepared by Draper-Aden Associates, Inc., Engineers-Surveyors-Planners, a copy of which is recorded in Cabinet 1, Slide 256 at Page 4 in the Clerk's Office of the Circuit

LAW OFFICES  
STONE, HARRISON,  
URK & SHOWALTER, P.C.  
P. O. BOX 2968  
RADFORD, VA 24143

Court of Pulaski County, Virginia. The plat designates twelve (12) separate drainfields on the aforesaid parcel.

AND BEING a portion of the same property conveyed to C. Clarke Cunningham, III, et al, from C. Clarke Cunningham, Jr. and Mary P. Cunningham, his wife, by the following deeds of conveyance: Deed dated January 4, 1980, recorded in Deed Book 349, Page 232; Deed dated December 21, 1981, recorded in Deed Book 366, Page 203; Deed dated June 21, 1983, recorded in Deed Book 379, Page 164; Deed dated September 13, 1985, recorded in Deed Book 405, Page 278; and Deed dated August 20, 1987, recorded in Deed Book 436, Page 522.

The rights and benefits herein conveyed shall be for the benefit of tracts or parcels of land owned by property owners of Mallard Point, Phases I, II, III, and IV who are members of Mallard Point Homeowners' Association, Inc., by ownership of their property in Mallard Point.

It is understood by all parties that the rights conveyed herein to the sewer lines, septic tanks, and distribution fields are not exclusive. The parties of the first part reserve the right to convey easements to the aforesaid sewer lines, septic tanks, and distribution fields to third parties or to connect on to the system for their personal use subject to available capacity and to sharing cost of maintenance.

As consideration for the granting of this easement, the Grantee shall be responsible for payment of all real estate taxes and maintenance applicable to the property which is subject to the easement contained herein.

In the event public sewer service shall become available to the townhomes located in Mallard Point Subdivision, this easement shall terminate by operation of law.

**WITNESS** the following signatures and seals:

C. Clarke Cunningham, III (SEAL)  
C. Clarke Cunningham, III

R. Bruce Cunningham (SEAL)  
R. Bruce Cunningham

William K. Cunningham (SEAL)  
William K. Cunningham

STATE OF VIRGINIA

CITY/COUNTY of Radford, to-wit:

The foregoing Deed of Easement was acknowledged before me this 11 day of May, 1995, by C. Clarke Cunningham, III.

My commission expires: 5-31-97.

Kelley B. McDanel  
Notary Public  
I was commissioned as Kelley Brewster

STATE OF VIRGINIA

CITY/COUNTY of Montgomery, to-wit:

The foregoing Deed of Easement was acknowledged before me this 12<sup>th</sup> day of May, 1995, by R. Bruce Cunningham.

LAW OFFICES  
STONE, HARRISON,  
TURK & SHOWALTER, P.C.  
P. O. BOX 2988  
RADFORD, VA 24149

My commission expires: July 1, 1997.

Frances B. Poff  
Notary Public

STATE OF VIRGINIA

CITY/COUNTY of Radford, to-wit:

The foregoing Deed of Easement was acknowledged before me  
this 11 day of May, 1995, by William K.  
Cunningham.

My commission expires: 5-31-97.

Jimmy B. McDaniel  
Notary Public

*I was commissioned as Kelly Barwick*

VIRGINIA  
IN THE CLERK'S OFFICE OF  
PULASKI COUNTY  
CIRCUIT COURT ON THE 15TH DAY OF  
MAY, 1995 AT 02:27PM  
INSTRUMENT #95001670 WAS RECEIVED AND  
UPON CERTIFICATION OF ACKNOWLEDGEMENT  
THERE TO ANNEXED, ADMITTED TO RECORD.  
THE STATE TAX IMPOSED BY SEC. 58.1-802  
OF THE VIRGINIA CODE, HAS BEEN PAID IN  
THE AMOUNT OF: \$ .00  
STATE: \$ .00 LOCAL: \$ .00  
-4-ESTE: R. GLENNWOOD LOOKABILL  
(CLERK OF CIRCUIT COURT)

Brenda M. Livesay, DC  
BT: \_\_\_\_\_ D.C.

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