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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR SKAMANIA COUNTY

SKAMANIA COUNTY
ORIGINAL FILED

FEB 14 1994

Lorena E. Hollis, Clerk

DON KELLY, a single man,

Plaintiff,

No. 93-2-00106-3

vs.

JAMES SHEPARD AND FAYE
SHEPARD, husband and wife,
individually and the marital
community of them composed;
also, all other persons
or parties unknown claiming any
right, title, estate, lien or
interest in the real estate
described in the complaint herein,

Defendants.

ORDER GRANTING
PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT
AND DENYING DEFENDANTS'
MOTION FOR PARTIAL
SUMMARY JUDGMENT
FILED FOR RECORD

SKAMANIA CO. WASH
BY *Don Kelly*

APR 5 2 24 PM '94

AUDITOR
GARY M. OLSON

THIS MATTER having come on regularly for hearing before the undersigned court on the 3rd day of February, 1994 upon the Plaintiff's motion for summary judgment, and the parties each appearing through their attorneys of records, and the court having considered the files and records herein and in particular the following documents, their attachments and other evidence:

1. Contract to Make an Easement, dated October 23, 1990;
2. Grant of Easement recorded January 11, 1991 at Book 121, Page 946-948, records of Skamania County, Washington;
3. Complaint for Declaratory Judgment, Damages and Trespass;

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Order Granting Plaintiff's
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4. Answer to Plaintiff's Complaint;
5. Plaintiff's Motion for Partial Summary Judgment;
6. Memorandum in Support of Plaintiff's Motion for Partial Summary Judgment;
7. Affidavit in Support of Plaintiff's Motion for Partial Summary Judgment;
8. Defendant's Motion for Partial Summary Judgment;
9. Affidavit in Support of Defendant's Motion for Summary Judgment;
10. Defendant's Memorandum in Support of Defendant's Motion for Summary Judgment; and In Response to Plaintiff's Motion for Summary Judgment;
11. Plaintiff's Rebuttal Memorandum; and

having heard the argument of counsel, and being otherwise fully advised in the premises; NOW, THEREFORE,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

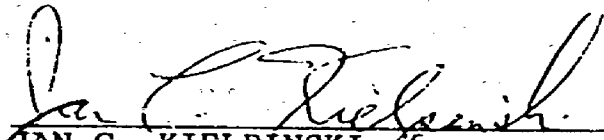
1. Plaintiff's Motion for Partial Summary Judgment is granted;
2. The Contract to Make an Easement between the parties dated October 3, 1990 is void and set aside;
3. The Grant of Easement recorded January 11, 1991 at Book 121, Page 945-948, records of Skamania County, Washington is void and set aside;
4. Plaintiff's right to use of the original easement as set out in the Blankenship Short Plat, recorded with the Skamania county Auditor on January 14, 1980, is confirmed;

5. Defendants' cross-motion for summary judgment is denied.
DONE IN OPEN COURT this ____ day of February, 1994.

TED KOLBABA, JUDGE

Presented by:

KIELPINSKI & ASSOCIATES, P.C.



JAN C. KIELPINSKI of
Attorneys for Plaintiff
WSB # 3716

Approved for Entry and Notice
of Presentment Waived:

BOETTCHER, LaLONDE, KLEWENO,
RUGLEDGE, JAHN & HOLTMAN, P.S.



GILBERT H. KLEWENO of
Attorneys for Defendants
WSB #1064