

FILED FOR RECORD
SKAMANIA CO. WASH
BY *Kielniski & Assoc*

SEP 21 4 34 PM '94

P. Lowry
AUDITOR

GARY M. OLSON

120602

REAL ESTATE CONTRACT BOOK 145 PAGE 969

THIS CONTRACT, made and entered into this 16th day of September, 1994, between LEWIS A. JOHNSON and PAMELA A. JOHNSON, husband and wife, hereinafter called the "Sellers", and FRANK PACOSA, a married man dealing in his separate property, hereinafter called the "Purchaser".

WITNESSETH; That the Sellers agree to sell to the Purchaser and the Purchaser agrees to purchase from the Sellers the following described real estate, with the appurtenances, in Skamania County, State of Washington:

That portion of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 23, Township 4 North, Range 7 E.W.M., described as follows:

Beginning at the Northeast corner of Blaisdell Tracts according to the official plat thereof on file and of record in the office of the Auditor of Skamania County, Washington; thence Easterly parallel to the South line of the said Section 23 to intersection with the Westerly line of the county road known and designated as the Wind River Highway; thence North 08°15' East along the Westerly line of said highway to a point 250 feet South 08°15' West as measured along the Westerly line of said highway, from the North line of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the said Section 23; thence West 380 feet; thence North to intersection with the North line of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the said Section 23; thence West along the North line of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the said Section 23 to the Easterly line of that certain county road formerly designated as the Wind River Road; thence Southerly along the Easterly line of the said county road to the point of beginning.

INCLUDING 1971 Marlette mobile home, 65/12, VIN No. 10963, License No. \$29108.

The terms and conditions of this contract are as follows:

Price and Payment Terms

1. The purchase price is **Ninety-five Thousand and No/100 Dollars (\$95,000.00)**, of which \$47,000.00 has been paid, the receipt whereof is hereby acknowledged, and the balance of said purchase price shall be paid as follows:

a. \$532.83, or more at Purchaser's option, on or before 30 days after closing, and \$532.83, or more at Purchaser's option, on or before the 15th day of each succeeding calendar month thereafter until the balance of said purchase price shall have been fully paid.

b. The Purchaser further agrees to pay interest on the diminishing balance of said purchase price at the rate of eight and one-half per cent (8½%) per annum from the 16th day of September, 1994, which interest shall be deducted from each installment payment and the balance of each payment applied in reduction of principal.

Accepted	✓
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Mailed	

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16921

REAL ESTATE EXCISE TAX

20 1984

PAID 1216.00

Glenda J. Kimmel

SKAMANIA COUNTY TREASURER

Glenda J. Kimmel, Skamania County Auditor
By: *Glenda J. Kimmel* Parcel # 9-7-23-3-4-300
9/17/94

c. Purchaser agrees that the entire purchase price, together with interest as specified herein, shall be paid in full by November 15th, 2006, and that the amount of the final payment shall be the total of the principal and interest remaining unpaid at the time of the final payment.

2. Purchaser to pay \$25.00 as reasonable liquidated damages, and not as a penalty, in the event that any regularly scheduled payment is made after the due date but prior to the expiration of 10 days from the due date. Such amounts shall be added to the principal balance remaining unpaid. In the event payment is not made within 10 days of the due date it shall constitute a default hereunder.

3. All payments to be made hereunder shall be made at P. O. Box 664, Carson, Washington 98610, or at such other place as the Sellers may direct in writing.

4. As referred to in this contract, "date of closing" shall be September 16th, 1994.

5. Purchaser may at his option pay the entire balance of the purchase price remaining due, or any part of such balance, at any time before maturity, without penalty and without notice to Sellers.

Closing Costs

6. Purchaser's Closing Costs. Purchaser shall pay the following closing costs:

- a. Fee to record Real Estate Contract;
- b. One-half (1/2) of real estate tax; and
- c. One-half (1/2) of closing fee to Kielpinski & Associates, P.C.

7. Sellers' Closing Costs. Sellers shall pay the following closing costs:

- a. One-half (1/2) of real estate tax;
- b. One-half (1/2) of closing fee to Kielpinski & Associates, P.C.; and
- c. Fee to transfer title to mobile home.

Pro-Rated Items

8. The following shall be pro-rated as of the date of closing:

- a. 1994 Real Property Taxes
- b. Insurance, interest, mortgage insurance, water and other utilities constituting liens, if applicable.

9. The Purchaser assumes and agrees to pay before delinquency all taxes and assessments, including but not limited to any governmental improvement assessments or charges that may as between grantor and grantee hereafter become a lien on said real estate. Upon request by Sellers, Purchaser will show proof of said payments.

Inspection

10. The Purchaser agrees that full inspection of said real estate has been made and that neither the Sellers nor their assigns shall be held to any covenant respecting the condition of any improvements thereon nor shall the Purchaser or Sellers or the assigns of either be held to any covenant or agreement for

alterations, improvements or repairs unless the covenant or agreement relied on is contained herein or is in writing and attached to and made a part of this contract.

Taking

11. The Purchaser assumes all risk hereafter placed on said real estate or of the taking of said real estate or any part thereof for public use and agrees that any such taking shall not constitute a failure of consideration. In case any part of said real estate is taken for public use, the portion of the condemnation award remaining after payment of reasonable expenses of procuring the same shall be paid to the Sellers and applied as payment on the purchase price herein unless the Sellers agree in writing to allow the Purchaser to apply all or a portion of such condemnation award to the rebuilding or restoration of any improvements damaged by such taking.

Insurance

12. The Purchaser agrees to keep any improvements or future improvements located on the property insured against loss or damage by fire, windstorm, and all other casualties covered by "all risk" or extended coverage endorsements available in the State of Washington in an amount equal to the full insurable value thereof, on the initial and renewal policy dates, with a company acceptable to the Sellers and with loss payable first to Sellers as their interest may appear, and to pay all premiums for such insurance and deliver all policies and renewals thereof to the Sellers. All such policies shall provide that they cannot be amended or canceled without ten (10) days written notice to Sellers.

In the event of loss or damage to the property which is required to be insured hereunder, and except as otherwise required by any prior encumbrance and the then holder thereof, the insurance proceeds shall, at the option of the Purchaser, be used to repair, rebuild, or replace all improvements and personal property which may have been destroyed or damaged to the extent necessary to restore and replace them to substantially the same condition which existed immediately prior to the casualty, subject to such modifications as may then be required by law or to which the Sellers agree in writing. Immediately upon receipt, all insurance proceeds, together with any other sums required to complete the repairs and restorations, shall be placed in a construction disbursement account with an escrow agent or other person jointly designated by the Sellers and the Purchaser and shall be disbursed periodically in amounts corresponding to the percentage of completion of repairs; provided, however, that in the event this contract is forfeited, any portion of such replacement costs due as of the date of such forfeiture shall be immediately paid to the Sellers. No construction may be commenced until all sums required to pay the costs thereof have been deposited in the disbursement account. The expenses of said disbursement account and the expenses of obtaining percentage completion certificates shall be paid by the Purchaser, and the Purchaser shall be responsible for depositing in the disbursement account the amounts necessary to pay all costs of repairs, reconstruction and replacements which are not covered by the insurance proceeds. In the event the Purchaser desires to construct improvements which are materially different from those so damaged or destroyed, he shall first obtain the Sellers' written consent. All repairs and replacements shall be commenced within sixty (60) days following the date the Purchaser elects to reconstruct and shall be continuously pursued with due diligence. Subject to the terms of any prior encumbrances, any casualty insurance proceeds which are not used to pay for repairs or replacements permitted by the terms of this paragraph shall be paid to the Sellers and applied against the principal balance last due hereunder.

If (a) the Purchaser does not elect to repair the damage, or (b) the Sellers' consent to different improvements is not waived or given, or (c) the Purchaser does not deposit into the disbursement account all sums in excess of available insurance

proceeds required for reconstruction by the date construction is required to commence, or (d) construction is not commenced when required or not continuously pursued (subject to delays beyond the reasonable control of the Purchaser, the Sellers may require that all casualty insurance proceeds be immediately paid to the Sellers or to the holder of a prior encumbrance having a valid claim thereto which is prior to the Sellers'. The Purchaser shall make the elections provided for in this paragraph within sixty (60) days following the date of the casualty, and the Sellers shall respond in writing to a written request to construct materially different improvements within twenty (20) days after said request. Any failure of the Purchaser to timely make any such election shall enable the Sellers to apply the insurance proceeds against the principal last due under this contract, and any failure of the Sellers to timely respond to any such request shall be deemed an approval thereof.

Damage to or destruction of the property or any portion thereof shall not constitute a failure of consideration or provide a basis for the rescission of this contract, nor shall such circumstances relieve the Purchaser of his obligation to pay the remaining installment amounts when due. In the event of any failure of the Purchaser to obtain or timely pay any premiums for any insurance required by this paragraph, the Sellers may require the Purchaser to deposit with each installment amount an amount reasonably estimated by the Sellers to be necessary to discharge the next ensuing premiums for said policies, said estimates to be adjusted by the Sellers upon receipt of the premium invoices to reflect the actual amount of such liabilities. The payments so made which have not been applied against such liabilities shall be returned to the Purchaser with the delivery of a statutory warranty fulfillment deed to the Purchaser at such time as the purchase price and interest requested hereunder has been paid in full. The Sellers shall not be liable for interest on said deposits. If not retained in an escrow or collection account, said funds shall be maintained by the Sellers in a segregated account and expended for no other purpose, with interest thereon, if any, being added to the sums so held.

Title Insurance

13. Purchaser expressly agrees that Sellers shall not be required to purchase a Purchaser's policy of title insurance.

Short Plat

14. Sellers expressly agree that Purchaser shall have permission to divide said property by short platting it into as many as three (3) lots. Sellers, however, reserve the right to approve any proposal to short plat for the purpose of assuring themselves that the remaining lots would have adequate access for roads and utilities independent of any lot which Purchaser selects pursuant to the deed release provision below, and for the purpose of assuring that the lots not deeded in partial satisfaction of this contract as specified below will be of adequate value to secure the outstanding balance of the purchase price herein.

Deed Release

15. Sellers agree that subject to the appropriate short plat referred to above receiving approval by Skamania County, they will execute and deliver a deed in partial satisfaction of this contract on one lot to be selected by the Purchaser. The cost of short platting, the preparation of legal instruments, and the recording costs shall be the responsibility of the Purchaser.

Effect of Deed Release

16. From and after the time that a deed in partial satisfaction of this contract has been recorded, that parcel or lot shall no longer be subject to the terms of this contract.

Deed

17. The Sellers agree, upon receiving full payment of the purchase price and interest in the manner above specified, to execute and deliver to Purchaser a statutory warranty fulfillment deed to said real estate, excepting any part thereof hereafter taken for public use, or previously deeded to Purchaser, free of encumbrances except any that may attach after date of closing through any person other than the Sellers.

Title to Mobile Homes

18. Sellers shall proceed with all due diligence to deliver to Purchaser the title to the mobile home located on the subject property.

Possession

19. Unless a different date is provided for herein, the Purchaser shall be entitled to possession of said real estate thirty (30) days after the date of closing and to retain possession so long as Purchaser is not in default hereunder. The Purchaser covenants to keep any improvements on said real estate in good repair, not to permit waste and not to use, or permit the use of, the real estate for any illegal purpose. The Purchaser covenants to pay all service, installation or construction charges for water, sewer, electricity, garbage or other utility services furnished to said real estate after the date Purchaser is entitled to possession.

Use of Premises

20. Purchaser covenants and agrees to make or permit no unlawful, offensive or improper use of the premises or any part thereof.

Assignment

21. The rights hereby granted are personal to the Purchaser and Sellers' reliance upon Purchaser's ability and integrity is a part of the consideration for this contract. Neither this contract nor any interest therein, nor the possession of the property, may be assigned or transferred by Purchaser, nor shall Purchaser make or enter into any contract for the sale of the property or any interest therein, without the prior written consent of Sellers.

Default

22. In case the Purchaser fails to make any payment herein provided, the Sellers may make such payment, and any amounts so paid by Sellers, together with interest at the rate of 12% per annum thereon from date of payment until repaid, shall be repayable by Purchaser on Sellers' demand, all without prejudice to any other right the Sellers might have by reason of such default.

23. Time and the covenants of Purchaser are of the essence of this contract, and it is agreed that in case the Purchaser shall fail to comply with or perform any condition or agreement hereof or to make any payment required hereunder promptly at the time and in the manner herein required, the Sellers may at their option exercise any of the following alternative remedies upon giving Purchaser thirty (30) days written notice specifying the default and the remedy to be exercised should Purchaser fail to cure all defaults at the expiration of the 30-day period:

- a. Suit for Delinquencies. Sellers may institute suit for any installments or other sums then due and payable under this agreement together with any sums advanced by Sellers for and the amount of any delinquencies for items such as water assessments, taxes, insurance, payments and underlying obligations and lienable items, together with interest thereon at the rate of 12% per annum from

the date each such payment was advanced or due, as the case may be.

- b. Forfeiture and Repossession. The Sellers may cancel and render void all rights, title and interests of the Purchaser and his successors in this contract and in the property (including all of Purchaser's then existing rights, interests and estates therein and improvements thereon) by giving a Notice of Intent to Forfeit pursuant to RCW 61.30.040-070, and said cancellation and forfeiture shall become effective if the default therein specified has not been fully cured within ninety (90) days thereafter and the Sellers records a Declaration of Forfeiture pursuant to RCW 61.30.040-070. Upon the forfeiture of this contract, the Sellers may retain all payments made hereunder by the Purchaser and may take possession of the property ten (10) days following the date this contract is forfeited and summarily eject the Purchaser and any person or persons having possession of the said property by, through or under the Purchaser who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture. In the event the Purchaser or any person or persons claiming by, through or under the Purchaser who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture remain in possession of the property more than ten (10) days after such forfeiture, the Purchaser, or such person or persons, shall be deemed tenants at will of the Sellers and the Sellers shall be entitled to institute an action for summary possession of the property, and may recover from the Purchaser or such person or persons in any such proceeding the fair rental value of the property for the use thereof from and after the date of forfeiture, plus costs, including the Sellers' reasonable attorneys' fees.
- c. Specific Performance. Sellers may institute suit to specifically enforce any of the Purchaser's covenants hereunder.
- d. Property Rental. In the event this contract is forfeited as herein provided, or in any other manner permitted by law, or by mutual agreement of the Purchaser and Sellers, and the Purchaser shall thereafter remain in possession of the property beyond any period otherwise permitted by law, the Purchaser agrees that he will occupy the property as a tenant at will, and the Purchaser shall be obligated to pay, and hereby promise to pay, during the period of such tenancy at will, a fair market rental in the amount then agreed to by the parties or, in the absence of such agreement or until such agreement is reached, an amount equal to two (2) times the installment amount as and when provided for in the specific terms hereof, and the Sellers shall have, in addition to all other remedies for the collection of rentals and the recovery of possession that are available to landlords under the laws of the State of Washington, the right to institute an action for summary possession of the property as provided by law.

The waiver of Sellers to elect to pursue any of the above remedies at any time upon a breach of any of the terms of this contract by the Purchaser shall be deemed only an indulgence by the Sellers with regard to that particular breach and shall not be construed, in any manner whatsoever, to be a waiver of any right of Sellers to pursue any of the above remedies for the same or a different breach at a subsequent time; election of the Sellers to

utilize any particular remedy to enforce a breach of this contract shall not preclude Sellers from electing to use an alternate remedy to enforce a subsequent breach. The remedies stated herein are cumulative and not mutually exclusive. Any delay or failure of Sellers to take action upon default shall not be construed as a waiver of said default. If Sellers are required to institute legal action to enforce any of the remedies indicated, Purchaser agrees to pay Sellers' costs and reasonable attorneys' fees incurred in such proceeding and any appeal thereof.

Purchaser's Remedies

24. In the event Sellers should default in any of their obligations under this contract and such default continues for fifteen (15) days after the Purchaser gives the Sellers written notice specifying the nature thereof and the acts required to cure the same, the Purchaser shall have the right to specifically enforce this contract, institute suit for his damages caused by such default, or pursue any other remedy which may be available to Purchaser at law or in equity.

Notice

25. Any notice, declaration, demand, consent or communication to be given by any party to this contract to any other party shall be in writing and transmitted to the other party by either personally delivering the notice or by certified or registered mail, return receipt requested, addressed as follows:

To Purchaser: Frank Pacosa
11285 Westgate Way
Clackamas, OR 97015

To Sellers: Lewis A. and Pamela R. Johnson
P. O. Box 664
Carson, WA 98610

Either party may change its address by giving written notice to the other party in the manner provided above, provided that in no event shall Sellers be required to send any notice to more than two (2) addresses. The mailing and registering or certifying of any such notice as herein provided shall be sufficient service thereof. Service shall be complete when such notice is registered or certified and placed in the United States mail as shown by the cancellation stamp or postage meter stamp, as the case may be.

Costs and Attorneys' Fees

26. If either party shall be in default under this contract, the nondefaulting party shall have the right, at the defaulting party's expense, to retain an attorney to make any demand, enforce any remedy, or otherwise protect or enforce its rights under this contract. The defaulting party hereby promises to pay all costs and expenses so incurred by the nondefaulting party, including, without limitation, court costs, notice expenses, title search expenses, and reasonable attorneys' fees (with or without arbitration or litigation). In the event either party hereto institutes any action to enforce the provisions of this contract, the prevailing party in such action shall be entitled to reimbursement by the losing party for its court costs and reasonable attorneys' fees, including such costs and fees as are incurred on appeal. All reimbursements required by this paragraph shall be due and payable on demand, may be offset against any sum owed to the party so liable in order of maturity, and shall bear interest at the default rate from the date of demand to and including the date of collection or the due date of any sum against which the same is offset.

Succession

27. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

Governing Law

28. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington.

Use of Pronouns

29. Unless the context requires otherwise, references to the singular shall include the plural and references to the plural shall include the singular. Unless some other meaning or intent is apparent from the context, masculine, feminine and neuter pronouns are used interchangeably herein.

Entire Agreement

30. This Agreement supersedes any prior agreement and contains the entire agreement of the parties as to the matter covered. No other agreement, statement or promise made by any party or to any employee or agent of any party shall be binding unless made in writing and signed by both parties to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first written above.

SELLERS:

PURCHASER:

Lewis A Johnson
LEWIS A. JOHNSON

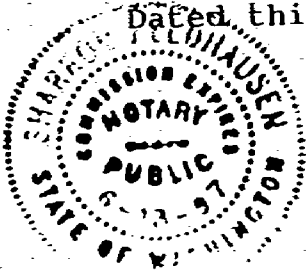
Frank Pacosa
FRANK PACOSA

Pamela R. Johnson
PAMELA R. JOHNSON

STATE OF WASHINGTON)
) ss
County of Skamania)

I certify that I know or have satisfactory evidence that LEWIS A. JOHNSON and PAMELA R. JOHNSON are the persons who appeared before me, and said persons acknowledged that they signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

Dated, this 16th day of September, 1994.



Sharron Feldhausen
Name SHARRON FELDHAUSEN
Notary Public in and for the
State of Washington.

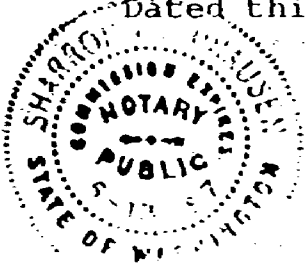
Commission expires 6-13-97

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STATE OF WASHINGTON)
) ss
County of Skamania)

I certify that I know or have satisfactory evidence that FRANK PACOSA is the person who appeared before me, and said persons acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated this 16th day of September, 1994.



Sharron Feldhausen

Name SHARRON FELDHAUSEN
Notary Public in and for the
State of Washington.

Commission expires 6-13-97