

After recording return to:

KIELPINSKI & ASSOCIATES, P.C.
P. O. Box 510
Stevenson, WA 98648

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

Apr 28 4 49 PM '95

P. Olson
AUDITOR

GARY M. OLSON

122197

REAL ESTATE CONTRACT

BOOK 149 PAGE 597

THIS CONTRACT, made and entered into this 29th day of March, 1995, between Robert W. Barnes and Blanche A. Barnes, husband and wife, hereinafter called the "Sellers", and Christopher A. Hipkind and Deborah J. Hipkind, husband and wife, hereinafter called the "Purchasers".

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

A tract in Sections 26 and 27, Township 3 North, Range 8 East of Willamette Meridian described as follows:

Lot 2, Plat 4 of Barnes (Home Valley #4) SHORT PLAT.

TOGETHER WITH a perpetual nonexclusive easement for ingress, egress access and utilities on, over, under and across the easterly 25' of Lot 1, Plat 4 of Barnes (Home Valley #4) Short Plat; and

SUBJECT TO a perpetual nonexclusive easement for ingress, egress, access and utilities, across the easterly 25' thereof in favor of Lots 3 and 4 of Plat 4 of Barnes (Home Valley #4) Short Plat, and a perpetual nonexclusive easement for utilities on, over, under and across the easterly 25' thereof for the benefit of Assessor's Parcel #3-8-26-0500, more particularly described as:

Parcel 1

A tract of land in Section 26 and 27, Township 3 North, Range 8 East of the Willamette Meridian, in the County of Skamania, State of Washington, described as follows:

Beginning at the Northeast corner of a tract of land conveyed to Gary L. Collins, Et. Ux. (Tax Lot 302) by instrument recorded in Book 82, Page 683, which is also on the East line of the Robbins D. L. C.; thence South 52° 25'

REAL ESTATE EXCISE TAX

17315

APR 28 1995

PAID 980.00

SKAMANIA COUNTY TREASURER

Sup-stored
Indexed, Lit
Indirect
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805-92-8-6
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247

West 703.96 feet to the Northeast corner of Lot 4 of the Barnes Short Plat No. 4; thence West along the said North line 300 feet, more or less to the Southeast corner of a tract of land conveyed to Gerald A. Barnes by instrument recorded in Book 102, Page 177; thence North 45° East along said East line 565.7 feet, more or less to a point which is due South of the Northeast corner of said tract 250 feet; thence North along said East line 250 feet to the Northeast corner of said tract; thence West along the said North line to the East line of Lot 2 of the Robert W. Barnes Short Plat Home Valley #2 as recorded in Book 2 of Short Plats, Page 153A; thence North along said East line to the unnamed Creek, which is also the Southwest corner of Lot 3 of the Robert Barnes Short Plat Home Valley #2 recorded in Book 2 of Short Plats, Page 153A; thence Northeasterly along said unnamed creek and the South line of the Robert Barnes Short Plat Home Valley #2 to the Southeast corner of Lot 4 of said Short Plat; which point is also the East line of the Robbins D. L. C.; thence South along said East line of the point of beginning.

Parcel II

All of Lot 2 of the Robert W. Barnes Short Plat Home Valley #2 as recorded in Book 2 of Short Plats, Page 153A.

EXCEPT the North half thereof.

The terms and conditions of this contract are as follows:

Price and Payment Terms

1. The purchase price is **Thirty-Seven Thousand Five Hundred and No/100 Dollars (\$37,500.00)**, of which \$6,000.00 has been paid, the receipt whereof is hereby acknowledged, and the balance of said purchase price shall be paid as follows:

A. \$300.00, or more at Purchasers' option, on or before the 10th day of May, 1995, and \$300.00, or more at Purchasers' option, on or before the 10th day of each succeeding calendar month thereafter until the balance of said purchase price shall have been fully paid.

B. The Purchasers further agree to pay interest on the diminishing balance of said purchase price at the rate of Eight percent (8%) per annum from the 29th day of March, 1995, which interest shall be deducted from each installment payment and the balance of each payment applied in reduction of principal.

C. Purchasers agree that the entire purchase price, together with interest as specified herein, shall be paid in full no later than March 29, 2010, 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.

D. Seller agrees to provide to Purchasers an amortization schedule once every year.

2. Purchasers agree 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 14 days from the due date. Such amounts shall be added to the principal balance remaining unpaid. In the event payment is not made within 14 days of the due date it shall constitute a default hereunder.

3. All payments to be made hereunder shall be made at M.P. 50.37 S.R. 14, Stevenson, Washington, or at such other place as the sellers may direct in writing.

4. As referred to in this contract, "date of closing" shall be March 29, 1995.

5. Purchasers may at their 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. Purchasers' Closing Costs. Purchasers shall pay \$450.00 toward the following closing costs:

- A. All recording fees.
- B. Real Estate excise tax;
- C. Premiums for title insurance;
- D. Closing fees to Kielpinski & Associates, P.C.

Sellers shall be responsible for the remaining portions thereof.

Pro-Rated Items

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

- A. 1995 Real Property Taxes
- B. Water and other utilities constituting liens, if applicable.

8. The Purchasers assume and agree 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, purchasers will show proof of said payments.

9. Purchasers are acquiring the property "as is" and sellers make no representations or warranties except as to title as set forth herein. Without limiting the generality of the foregoing, purchasers acknowledge that they have made their own independent investigation respecting the property and will be relying entirely thereon and on the advice of any consultant they may retain. Purchasers may not rely upon any representation of any party whether or not such party purports to act on behalf of sellers, unless the representation is expressly set forth therein or in a subsequent document executed by sellers. All representations, warranties, understandings and agreements between purchasers and sellers are merged herein and shall not survive closing.

Road Maintenance Agreement

10. Purchasers acknowledge that they have reviewed and understand that certain Private Roadway Agreement attached hereto as Exhibit "A". Purchasers represent and agree that, as a part of the consideration for this real estate contract, they will sign said Private Roadway Agreement at time of closing and will thereafter abide by its terms.

Taking

11. The purchasers assume all risk hereafter placed on said real estate or of the taking of said real estate or any part thereof for public use and agree 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 purchasers 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 purchasers agree 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.

Title Insurance

13. The sellers have delivered, or agree to deliver within twenty (20) days of the date of closing a purchaser's policy of title insurance in standard form, or a commitment therefor, issued by Skamania County Title Company, insuring the purchasers to the full amount of said purchase price against loss or damage by reason of defect in sellers' title to said real estate as of the date of closing and containing no exceptions other than the following:

- A. Printed general exceptions appearing in said policy form;
- B. Encumbrances as to which the conveyance hereunder is to be made subject; none of which for the purpose of this paragraph shall be deemed defects in Sellers' title.

Deed

14. The sellers agree, upon receiving full payment of the purchase price and interest in the manner above specified, to execute and deliver to purchasers a statutory warranty fulfillment deed to said real estate, excepting any part thereof hereafter taken for public use, free of encumbrances except any that may attach after date of closing through any person other than the sellers, and subject to the exceptions noted in Paragraph 13 hereof.

Possession

15. The purchasers shall be entitled to possession of said real estate upon closing and to retain possession so long as purchasers are not in default hereunder. The purchasers covenant 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 purchasers covenant 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 purchasers is entitled to possession.

Use of Premises

16. Purchasers covenant and agree to make or permit no unlawful use of the premises or any part thereof.

Assignment

17. The rights hereby granted are personal to the purchasers and sellers' reliance upon purchasers' 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 purchasers, nor shall purchasers make or enter into any contract for the sale of the property or any interest therein, without the prior written consent of sellers.

Default

18. In case the purchasers fail 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 purchasers on sellers' demand, all without prejudice to any other right the sellers might have by reason of such default.

19. Time and the covenants of purchasers are of the essence of this contract, and it is agreed that in case the purchasers 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 purchasers thirty (30) days written notice specifying the default and the remedy to be exercised should purchasers 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 purchasers and their successors in this contract and in the property (including all of purchasers' 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 record 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 purchasers and may take possession of the property ten (10) days following the date this contract is forfeited and summarily eject the purchasers and any person or persons having possession of the said property by, through or under the purchasers who is properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture. In the event the purchasers or any person or persons claiming by, through or under the purchasers who is 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 purchasers, or such person or persons, shall be deemed tenants at will of the purchasers and the sellers shall be entitled to institute

an action for summary possession of the property, and may recover from the purchasers 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 purchasers 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 purchasers and sellers, and the purchasers shall thereafter remain in possession of the property beyond any period otherwise permitted by law, the purchasers agree that they will occupy the property as a tenant at will, and the purchasers 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 purchasers 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, purchasers agree to pay sellers' costs and reasonable attorneys' fees incurred in such proceeding and any appeal thereof.

Purchasers' Remedies

20. In the event sellers should default in any of their obligations under this contract and such default continues for fifteen (15) days after the purchasers give the sellers written notice specifying the nature thereof and the acts required to cure

the same, the purchasers shall have the right to specifically enforce this contract, institute suit for their damages caused by such default, or pursue any other remedy which may be available to purchasers at law or in equity.

Notice

21. 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 Sellers:

Robert W. Barnes and
Blanche A. Barnes
M.P. 50.37 S.R. 14
Stevenson, WA 98648

To Purchasers:

Christopher A. Hipkind and
Deborah J. Hipkind
P.O. Box 662
Seaview, WA 98644

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

22. 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

23. 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

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

Use of Pronouns

25. 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

26. 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:

PURCHASERS:

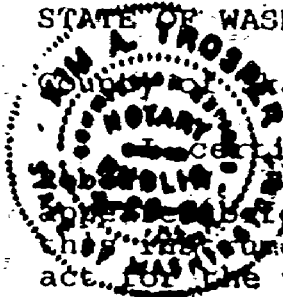
Robert W. Barnes
ROBERT W. BARNES

Christopher A. Hipkind
CHRISTOPHER A. HIPSKIND

Blanche A. Barnes
BLANCHE A. BARNES

Deborah J. Hipkind
DEBORAH J. HIPSKIND

STATE OF WASHINGTON)



) ss.

County of Skamania)

I certify that I know or have satisfactory evidence that Robert L. Barnes, and Blanche A. Barnes 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 29th day of March, 1995.

Kim A. Prosser
Notary Public in and for the
State of Washington, residing
at Stevenson

Commission expires 3/25/98

STATE OF WASHINGTON)

County of Pacific) ss.
Skamania)

I certify that I know or have satisfactory evidence that Christopher A. Hipskind and Deborah J. Hipskind 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 22nd day of MARCH, 1995.



Gregory D. McLeod
Notary Public in and for the
State of Washington, residing
at Long Beach

Commission expires 9/15/98

PRIVATE ROADWAY AGREEMENT

ROBERT W. BARNES (HOME VALLEY No. 4) SHORT PLAT
AS RECORDED IN BOOK 2, PAGE 195A OF
SKAMANIA COUNTY AUDITOR'S RECORDS

Approach Permit No. _____ Carefree Drive
(Private).

Recitals

1. Carefree Drive is an easement for ingress, egress, access and utilities on, over, under and across the Easterly Twenty-Five (25') feet of Lots 1, 2 and 3 for the benefits of Lots 1, 2, 3 and 4 of the Robert W. Barnes (Home Valley Short Plat No. 4) in Sections 26 and 27, Township 3 North, Range 8 E.W.M. in Skamania County, Washington.

2. Carefree Drive is also an easement for utilities only on, over, under and across the Easterly 25 feet of Lots 1, 2, 3 and 4 of said Robert W. Barnes (Home Valley Short Plat No. 4) for the benefit of Tax Lot 3-8-26-500 (Deed reference 66/315);

3. It is necessary and desirable that an agreement be made to provide for the allocation of maintenance costs for a roadway across said easement among the owners of Lots 1, 2, 3 and 4;

THEREFORE, the owners of said Lots 1, 2, 3 and 4, agree to provide for the maintenance of Carefree Drive as follows:

1. Carefree Drive shall be a private roadway and easement for ingress, egress, access and utilities.

2. Maintenance costs for Carefree Drive shall be allocated on the following basis:

- a. Lot 1 - 09%
- b. Lot 2 - 21%
- c. Lot 3 - 30%
- d. Lot 4 - 40%

3. The type of maintenance required and the method of collection and disbursement of funds to be used therefore shall be determined by majority rule of the owners of said Lots 1, 2, 3 and 4 who are present at an annual meeting of landowners of said Robert W. Barnes (Home Valley No. 4) Short Plat, to be held at such time and place as shall be agreed upon by a majority of said landowners. Each of said Lots 1, 2, 3 and 4 shall be entitled to one vote;

4. The assessed costs for road maintenance shall become due and collectable upon completion of the work;

5. Such assessment shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made;

6. Any liability of the parties for personal injury to any workman employed to make repairs under this agreement, or to any third party, or for damage to the property of such person, as a result of or arising out of repairs or maintenance under this agreement, shall be borne, as between the parties, in equal amounts; and

7. This agreement shall run with the land, and the rights, duties and obligations hereunder shall inure to the benefit of, and constitute a burden on, the heirs, successors and assigns of the parties hereto.

DATED this 29th day of March, 1995.

LOT 1 OWNERS:

Robert W. Barnes
ROBERT W. BARNES

Blanche A. Barnes
BLANCHE A. BARNES

LOT 2 OWNERS:

Christopher A. Hipkind
CHRISTOPHER A. HIPSKIND

Deborah J. Hipkind
DEBORAH J. HIPSKIND

LOT 3 OWNERS:

Robert W. Barnes
ROBERT W. BARNES

Blanche A. Barnes
BLANCHE A. BARNES

LOT 4 OWNERS:

Robert W. Barnes
ROBERT W. BARNES

Blanche A. Barnes
BLANCHE A. BARNES