

127247

FILED
STATE OF WASH
BY Skamania County

FEB 3 9 11 AM '97

G. Laury
AUDITOR
GARY H. OLSON

RETURN ADDRESS:

Skamania County
PO Box 790
Stevenson WA 98648

Please Print or Type Information.

Document Title(s) or transactions contained therein:

1. Claim for Damages
- 2.
- 3.
- 4.

GRANTOR(S) (Last name, first, then first name and initials)

1. Skamania County
- 2.
- 3.
- 4.

☐ Additional Names on page ____ of document.

GRANTEE(S) (Last name, first, then first name and initials)

1. Talent, Karla
- 2.
- 3.
- 4.

☐ Additional Names on page ____ of document.

LEGAL DESCRIPTION (Abbreviated: I.E., Lot, Block, Plat or Section, Township, Range, Quarter/Quarter)

Section 2, T2N, R7E

☐ Complete legal on page ____ of document.

REFERENCE NUMBER(S) Of Documents assigned or released:

N/A

☐ Additional numbers on page ____ of document.

ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER

02-07-02-0-0-0605-00

☐ Property Tax Parcel ID is not yet assigned.

☐ Additional parcel #'s on page ____ of document.

Signed _____
Noted _____
Noted _____
Noted _____

The Auditor/Recorder will rely on the information provided on the form. The Staff will not read the document to verify the accuracy or completeness of the indexing information.

FILED IN SECOND
SKAMANIA COUNTY
FEB 3 9 11 AM '97
O'Leary
AUDITOR
GARY H. OLSON

127247

FORM OF CLAIM FOR DAMAGES

TO THE BOARD OF COUNTY COMMISSIONERS of Skamania County, Washington:

PLEASE TAKE NOTICE that in accordance with Chapter 36.45 of the Revised Code of Washington, I KARLA TALENT

hereby present you with my claim for damages against the County of Skamania, State of Washington, with the information required to be given by RCW 36.45.020 as follows:

1. That the injury for which I claim damages against the County of Skamania, State of Washington, occurred on or about the 26th day of DECEMBER, 1996 through the 8th day of January, 1997
2. That the place of injury was Skamania Lodge Site, City of Stevenson, WA
3. That the location and description of the defect which caused the injury are Failure of Skamania County to abide by contractual Agreements, regarding maintenance of a certain residential access road on the Skamania Lodge site.
4. That the injury is described as follows: See Attachment 1, and associated Exhibits.
5. That the amount of damages claimed is as follows: \$2,800.00 Total
6. That the actual residence of the claimant at the time of presenting and filing this claim is The sole residence at MP.0.7a East View Rd, Stevenson, WA; also identifiable as Skamania County Tax Parcel 02 07 02 00 0 605 00.
7. That the actual residence of the claimant for a period of six months immediately prior to the time that this claim accrued was Same as listed in item 6.

DATED: January 28th, 1997

Z107560583

Karla Talent
(Claimant)

NOTE: Personal Property (Car, etc.) damages are to be accompanied by estimated repair costs. Additional information required by No.s 2-4 of this form may be attached on the back of this Claim for Damages.

By Xerox
Advised, Dir
Indirect
Filmed
Noted

Certified Mail #Z107560583
with Return Receipt Requested

RECEIVED

JAN 30 1997

SKAMANIA COUNTY
COMMISSIONERS

Karla Talent
P.O. Box 456
N. Bonneville, WA 98639

January 28, 1997

Skamania County Commissioners
Skamania County Courthouse
Stevenson, Washington 98648

Re: Claim for Damages

Dear Commissioners:

Attached is my claim against Skamania County for failing to maintain access through the Skamania Lodge site to my residence on an adjacent parcel. It is my understanding that access maintenance is the County's responsibility.

As you may be aware, proper maintenance has never been implemented on the route since the Lodge operations began. This is just one more example. This cannot continue.

If I am not satisfied with your action on this claim, I will consider further legal action against the County. Photographs, witnesses, and other evidence can be produced to prove my loss of access during the claim period.

Thank you for your prompt attention to this matter.

Sincerely,



Karla Talent

attachments

ATTACHMENT 1

Nature of Claim:

Money damages are being claimed for loss of access to residential property owned by Karla Talent. Access to her property and residence was blocked, during and after recent snow storms, based on the County's failure to clear snow from the roadway on what is known as the "Principle Road" on the Skamania Lodge site. Because the County did not provide the required maintenance under contract, the property owner was denied vehicular access for a period of 14 days.

Basis for Claim:

Two contracts spell out the County's responsibility to maintain this roadway to allow for access to residential tracts adjacent to the Skamania Lodge site.

1) Settlement Agreement, dated 11/21/91. Book 128 page 783-788 Skamania County. EXHIBIT A.

2) Ground Lease Agreement between County of Skamania Washington and Salishan Lodge, Inc. for Skamania Lodge. July 18, 1991;

and as amended by:

First addendum to Lease

Dated February 1st, 1993

and as continued by:

Contract of Sale between County of Skamania Washington and Salishan Lodge, Inc. for Golf Course and Meeting Facility of Skamania Lodge. December 1993. EXHIBIT B.

These contracts call for maintenance activities, which include snow plowing, on the Principle Road. During the recent claim period, such maintenance was provided, but only on the paved portion of said road, thereby causing access to the residential tracts in the area to be blocked.

Amount of Claim:

Damages are claimed, in the sum \$200 per day, for each day in which access was not possible. Each day is viewed as a separate compensable injury, for the period as follows:

12/26/96	\$200
12/27/96	200
12/28/96	200
12/29/96	200
12/30/96	200
12/31/96	200
01/01/97	200
01/02/97	200
01/03/97	200
01/04/97	200
01/05/97	200
01/06/97	200
01/07/97	200
01/08/97	200

\$2,800 Total Damage Claim

EXHIBIT A

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BOOK 128 PAGE 786

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2. Skamania County agrees to grant Ms. Talent a non-exclusive ingress and egress right-of-way and utilities easement deed over another portion of its property, described as follows, to wit:

SEE ATTACHED SCHEDULE "A" BY WHICH THIS REFERENCE IS INCORPORATED HEREIN.

3. Skamania County further agrees to relocate, at its own expense, the utilities currently serving the property and to relocate and construct a new right-of-way road up to the point where it adjoins and connects the existing East View Road.

4. Skamania County further agrees to regularly maintain the new driveway up to the point where it adjoins and connects the existing East View Road.

5. Skamania County further agrees to pay Ms. Talent the sum of \$7,500.

6. Skamania County further agrees, pursuant to 16 USC 544b(f), to file and support a petition to the Columbia River Gorge Commission to make a minor revision to the existing Stevenson Urban Area Boundary under the Columbia River Gorge National Scenic Area Act (16 USC 544, et seq.) to include all of Ms. Talent's above described property. Skamania County agrees to file this petition no later than October 30, 1992, unless the parties mutually agree in writing to an extension of time to file this petition.

4 - SETTLEMENT AGREEMENT

ED 56058

EXHIBIT B

P. 1089

permits or approvals, (iii) actual construction costs, including labor and materials, and any settlements or termination charges in connection with early termination of construction or supply agreements, (iv) difference between costs and fees and charges for FF&E delivered or ordered and the amount recovered from a resale or return of such items, and (v) interest, commitment and loan fees and other costs incurred to finance expenditures described in the preceding clauses of this definition.

Prime Rate shall mean the prime or reference rate of interest announced from time to time by U.S. National Bank of Oregon. If such rate shall be discontinued or shall not be readily available, Purchaser may substitute the prime or reference rate of any one of the five largest banks having an office in Oregon.

Principal Road shall mean the main access road connecting the main entrance on the 2nd Street Extension to Skamania Lodge with the parking area servicing the Conference Center, and the continuation of that relocated road to the point of intersection with the driveways to the private residences described in Section 11.

Project. The Project consists of all of the following elements: Skamania Lodge consists of the improved County Lands. County Lands are the Golf Course Site (see Exhibit A); the Lodge Site (see Exhibit B); and the Access Areas (see Exhibit C). The improvements to the County Lands include the Lodging Facility and Meeting Facility, which together form the Conference Center located on the Lodge Site, the Golf Course, and improvements to Access Areas. The Meadow is the closed landfill depicted in Exhibit D, and All Lands means the County Lands and Meadow collectively.

Resort Mortgage means any mortgage, deed of trust, security agreement or other encumbrance now or hereafter placed by Purchaser on the vendee's interest in the Contract for the Skamania Lodge or any portion thereof, or fee interest in the Lodge Building or Conference Center, or on any Capital Improvements, FF&E or other personal property used in connection with the Lodge Building and Conference Center, whether in connection with financing of the initial construction, equipping and furnishing of the Lodge Building and Conference Center or otherwise.

Resort Mortgagee means the holder of any Resort Mortgage.

Retail Space means any space rented by Purchaser to third parties for retail or office or service use within the Lodge Building, Conference Center or the Skamania Lodge.

EXHIBIT B

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not due to the negligence of either party, their agents or employees, on or about Skamania Lodge. Tenant agrees to defend and hold County harmless from any and all liability, cost, and expense, including reasonable attorneys' fees, arising from or related to any claims suffered or alleged to be suffered in or about Skamania Lodge by any person or entity arising from the negligence of Tenant, its agents and employees.

11.4.2 County shall not be called upon to make any improvement or repair of any kind to the Conference Center including foundation, roof, walls or any other structural repairs to the Conference Center. Skamania Lodge shall at all times be kept and used in accordance with the laws of the State of Washington and the City of Stevenson and in accordance with all directions, rules and regulations of the health officer, fire marshal, building inspector and other proper officers of public authorities having jurisdiction, all at the cost and expense of Tenant (but such cost and expense shall be Operating Expenses). Tenant shall permit no waste, damage or injury to Skamania Lodge and at Tenant's own cost and expense for its own account and not as agent of County shall perform all necessary repairs of any nature. Tenant shall remove all rubbish, debris, ice and snow from roads and sidewalks on or about Skamania Lodge except that County at its expense shall plow snow on the Principal Road in accordance with its regular snow removal program for County roads.

11.4.3 Tenant shall conduct and carry on continuously on every day throughout the term of this Lease following the Opening Day, the Conference Center and Golf Course operations for which the County Lands are leased subject to Acts of God, fire or other casualty, damage or destruction, refurbishing or remodeling or other interruptions of business beyond the reasonable control of Tenant. Tenant shall not use the County Lands or Skamania Lodge for any illegal purpose.

11.4.4 Tenant shall keep Skamania Lodge free from all liens arising out of any work performed, materials furnished or obligations incurred by Tenant.

11.5 MUTUAL EXPENSE APPROVALS. The following expenses or amounts shall be subject to mutual approval by the County and the Tenant prior to any expenditures therefor:

11.5.1 Items deducted from Gross Revenues to calculate Adjusted Revenues, consisting of the amount of self-insurance and insurance deductibles; any leases of real property other than under this Lease; and any leases of personal property; and the costs for preparing financial statements, which are set forth respectively in subparagraphs (b), (c) and (f) of the definition of "Adjusted Revenues" in Appendix I;

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**Section 13. MAINTENANCE, REPAIR AND CAPITAL IMPROVEMENTS
FOR GOLF COURSE**

13.1 MAINTENANCE AND REPAIR. So long as Tenant operates the Golf Course pursuant to this Lease, Tenant shall maintain and repair the Golf Course in a professional manner in a condition equivalent to or better than the general condition of other golf courses at high quality destination resorts/conference centers in similar climates in the Pacific Northwest. Without limiting the generality of the foregoing, the Golf Course shall be maintained in a condition as good as or better than the condition in which golf courses are maintained at other competitive destination conference center resorts in Oregon and Washington.

13.2 REDESIGN, CAPITAL IMPROVEMENTS AND REPLACEMENTS. If at any time either County or Tenant desires to redesign or make significant modifications to the Golf Course, including buildings, other than those items routinely conducted to preserve a course (i.e., shifting tees, etc.) or otherwise, then either party may propose such modifications to the other in writing. The parties shall cooperate to review the expense and design of the proposed work and attempt to agree within 30 days whether to proceed and how the costs might be shared between them. Even if the parties do not reach such an agreement within such thirty (30) days, the party initiating the proposal may on notice to the other of its intent proceed nevertheless to make the modifications so long as they will not impair Skamania Lodge. In that event, the cost of the expenditures shall be borne as follows: If Tenant is the party initiating the proposal Tenant shall bear the cost of modifications to existing improvements to the extent cumulative depreciation and asset cost recovery amounts deductible from Gross Revenues in the calculation of Adjusted Revenues since the inception of the Lease have not been expended by Tenant for Capital Improvements or FF&E replacement. Modification costs not allocated to Tenant pursuant to the preceding sentence shall be borne by the party initiating the proposal for modification and, if it is determined that the modifications are reasonably necessary to the efficient maintenance and operation of Skamania Lodge, such expenditures shall cause a recalculation of the Percentage Factor unless the party that did not initiate the proposal shall elect to contribute such portion of the expenditures as will prevent a change in the Percentage Factor notwithstanding such recalculation.

**Section 14. MAINTENANCE, REPAIR AND REPLACEMENT OF
IMPROVEMENTS TO THE ACCESS AREAS**

14.1 MAINTENANCE AND REPAIR. County shall maintain and repair and replace the Principal Road, at its expense as needed to preserve a clean, neat appearance. If the Option to

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Purchase described in Section 18.1 exercised, County shall not thereafter maintain, repair or replace the Access Areas, but shall receive or reserve an easement for public right of way over the Principal Road and will execute and record an agreement to maintain, repair and replace the Principal Road as long as the easement for public right of way continues.

14.2 REDESIGN, CAPITAL IMPROVEMENTS AND REPLACEMENTS. If at any time either County or Tenant desire to redesign or make significant modifications to the Access Areas, including buildings, other than those items routinely conducted to preserve such Access Areas, then either party may propose such modifications to the other in writing. The parties shall cooperate to review the expense and design of the proposed work and attempt to agree within 60 days whether to proceed and how the costs might be shared between them. If the parties do not reach such an agreement within such 60 days, and provided the modifications will be beneficial, the party initiating the proposal may, on notice to the other of its intent, proceed to make the modifications at its own expense.

Section 15. CONSTRUCTION OF THE CONFERENCE CENTER AFTER DAMAGE

15.1 RESTORATION OF INSURED DAMAGE. If the Conference Center or portion thereof is damaged or destroyed by fire or any other cause at any time during the lease term, which is covered by insurance, and Section 15.2 does not apply, Tenant shall promptly repair the damage and restore the improvement. The completed repair, restoration or replacement shall be equal in value, quality and use to the condition of the Conference Center as it existed immediately before the damage.

15.2 LAST TEN YEARS OF LEASE TERM. If the Meeting Facility or Lodge Facility is damaged during the last 10 years of the lease term or during any renewal term to the extent that the estimated reasonable cost of restoring the Meeting Facility or Lodge Facility equals or exceeds 50 percent of the fair market value of the Lodge Facility or Meeting Facility immediately prior to the damage, Tenant shall repair, restore and replace as provided in Section 15.1 except that Tenant may by notice to County given within sixty days after the date of the damage elect instead to raze the Lodge Facility or Meeting Facility, restore the Lodge Site to substantially its condition at the start of the lease term and terminate this Lease. Tenant shall pay all costs of razing and restoration of the Lodge Site which shall be completed not later than 270 days after the date of the fire or other cause of damage. Insurance proceeds shall be first applied to pay costs and the remainder shall be deemed Gross Revenue. The date of termination of this Lease shall be the date on which the razing and restoration is completed, and Tenant shall pay all rents, taxes and utilities and shall perform all other obligations of Tenant under this

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FIRST ADDENDUM TO LEASE
DATED JULY 18, 1991

THIS AGREEMENT, made this 1st day of February, 1993,
between SALISHAN LODGE, INC., hereinafter referred to as
"Salishan", and SKAMANIA COUNTY, hereinafter referred to as the
"County", WITNESSETH:

I. SUBJECT MATTER

1.1 The purpose of this agreement is to serve as an addendum
to that certain Lease Agreement dated July 18, 1991, between the
County as the Lessor and Salishan as the Lessee.

1.2 This addendum is intended to clarify the method to be
used in accomplishing the rights and duties of the parties relative
to road maintenance and snow removal to and from the "principal
road" as those terms are defined at pages 21 and 23 of said lease.

II. TERM OF ADDENDUM

This addendum shall remain in effect co-extensive with the
term of the principal lease unless it is modified by the parties in
accordance with the procedures for such modification as provided in
Section V below.

III. RESPONSIBILITY OF COUNTY

The County's responsibility for maintaining and plowing the
principal road is limited to the same responsibility it has for
plowing and maintaining county roads of similar character. The
County's obligation is to plow and sand said road in accordance
with its regularly scheduled maintenance and plowing program.
Roads of this character are generally plowed and sanded twice a day
during severe snow conditions.

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IV. ALTERNATIVE METHOD OF MAINTENANCE AND PLOWING

Because of the nature and design of the principal road the County would have difficulty accomplishing its snow plowing and sanding duties during inclement weather using existing county equipment and, because the uses the principal road will be put to may require extraordinary plowing, the parties agree that said plowing and sanding may be accomplished by Salishan subcontracting with a private contractor and that the County shall reimburse Salishan for the cost of said plowing and sanding, limited to a twice a day operation. The cost of additional plowing and sanding remains the financial responsibility of Salishan.

V. REVIEW OF SUBCONTRACTS

The County shall have the right to review subcontracts for snow plowing for the purpose of determining that the rates charged are no greater than those customarily charged in the area by private contractors for similar services and, in the event the County determines that said rates are excessive, the County can terminate this addendum and reassume the responsibility for the plowing and sanding operations.

VI. PAYMENT

Subject to Section IV above, Salishan is authorized to pay said subcontractors and deduct the costs of such payment from monies otherwise owed to the County pursuant to the terms of the principal lease agreement or, Salishan may bill the County directly.

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VII. MAINTENANCE

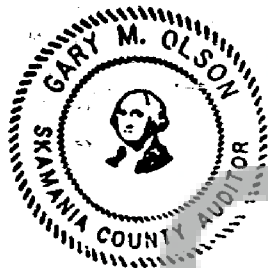
This agreement shall not affect the maintenance responsibilities of the County with regard to said principal road.

IN WITNESS WHEREOF, the undersigned parties have caused this First Addendum to be executed as of the day and year first above written.

SALISHAN LODGE, INC.

by: [Signature]

Title: VP & Finance



BOARD OF COUNTY COMMISSIONERS
SKAMANIA COUNTY

[Signature]

Chairman

[Signature]

Commissioner

[Signature]

Commissioner

ATTEST

[Signature]
County Auditor and Ex-Officio Clerk
of the Board

APPROVED AS TO FORM

RKL
Robert K. Leick, Prosecuting Attorney

Z107560583

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ACKNOWLEDGMENT

STATE OF WASHINGTON)
County of Skamania) ss.

I CERTIFY that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stating that he was authorized to execute the same and acknowledged it in his capacity as _____ of SALISHAN LODGE, INC., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.


Dated: _____, 1993.

NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires _____

STATE OF WASHINGTON)
County of Skamania) ss.

I CERTIFY that I know or have satisfactory evidence that DEAN EVANS, MELISSA CARLSON-PRICE and EDWARD CALLAHAN are the persons who appeared before me, and said persons acknowledged that they signed this instrument, on oath stating that they were authorized, to execute the same and acknowledged it, as the Board of County Commissioners of Skamania County, Washington, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: Feb 1, 1993.


NOTARY PUBLIC in and for the State of
Washington, residing at SOUTH BEND, WA
My commission expires 10-31-96

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(i.e., shifting trees, etc.) or otherwise, then Purchaser may propose such modifications to County in writing. The parties shall cooperate to review the design of the proposed work and attempt to agree on such modifications within 30 days. If the parties do not reach such an agreement within such 30 days, and provided the modifications will be beneficial, Purchaser may, upon notice to County of its intent, proceed to make the modifications.

Section 11. MAINTENANCE, REPAIR AND REPLACEMENT OF IMPROVEMENTS TO THE CERTAIN OTHER AREAS

11.1 MAINTENANCE AND REPAIR. Purchaser shall maintain and repair and replace road improvements, accessways, paths and parking areas within Skamania Lodge, and County shall maintain, repair and replace the Principal Roadway at its expense, as needed to preserve a clean, neat appearance. County shall not hereafter maintain, repair or replace such area, but shall receive or reserve an easement for public right of way over the Principal Road and will execute and record an agreement to maintain, repair and replace the Principal Road as long as the easement for public right of way continues.

11.2 REDESIGN, CAPITAL IMPROVEMENTS AND REPLACEMENTS. If at any time Purchaser desires to redesign or make significant modifications to roads, accessways, paths and parking areas, or add to, other than those items routinely conducted to preserve such areas, then Purchaser may propose such modifications to County in writing. The parties shall cooperate to review the design of the proposed work and attempt to agree on such modifications within 60 days. If the parties do not reach such an agreement within such 60 days, and provided the modifications will be beneficial, Purchaser may, upon notice to County of its intent, proceed to make the modifications.

Section 12. CONSTRUCTION OF THE CONFERENCE CENTER AFTER DAMAGE

12.1 RESTORATION OF INSURED DAMAGE. If the Conference Center or portion thereof is damaged or destroyed by fire or any other cause at any time during the term of this Contract, which is covered by insurance, Purchaser shall promptly repair the damage and restore the improvement. The completed repair, restoration or replacement shall be equal in value, quality and use to the condition of the Conference Center as it existed immediately before the damage.

12.2 UNINSURED DAMAGE. If all or any part of the Conference Center is physically damaged or destroyed by any cause for which insurance coverage is not required by this Contract to be maintained by Purchaser, and the estimated cost of the restoration exceeds \$500,000, adjusted annually to