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BOOK 180 PAGE 389

Return Address:

William D. Smith
9632 Washougal River Rd
Washougal, WA 98671

FILED IN RECORD
SKAP...
BY William Smith

AUG 18 12 56 PM '93

O. Lawry
AUDITOR
GARY H. OLSON

Please Print or Type Information.

Document Title(s) or transactions contained therein: 1. Amended Judgment Quieting Title. 2. Amended Findings of Fact & Conclusions of Law 3. 4.	
GRANTOR(S) (Last name, first, then first name and initials) 1. Dilley, Gerald et ux 2. Dilley, Michael et ux 3. 4. <input type="checkbox"/> Additional Names on page ____ of document.	
GRANTEE(S) (Last name, first, then first name and initials) 1. Smith, William D. 2. 3. 4. <input type="checkbox"/> Additional Names on page ____ of document.	
LEGAL DESCRIPTION (Abbreviated: I.E., Lot, Block, Plat or Section, Township, Range, Quarter/Quarter) SW ⁴ SE ⁴ Sect. 31 T2N R5EWM <input type="checkbox"/> Complete legal on page 34, 9 of document.	
REFERENCE NUMBER(S) Of Documents assigned or released: Vol 168 Pg 935 AF129176 9/11/97 <input type="checkbox"/> Additional numbers on page ____ of document.	<input checked="" type="checkbox"/> Indexed, L <input checked="" type="checkbox"/> Indexed, R <input checked="" type="checkbox"/> Indexed, B <input checked="" type="checkbox"/> Indexed, T
ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER 2-5-31-4-700 & 701 <input type="checkbox"/> Property Tax Parcel ID is not yet assigned. <input type="checkbox"/> Additional parcel #'s on page ____ of document.	
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.	

ORIGINAL

BOOK 180 PAGE 390

SKAMANIA COUNTY

FILED

FEB 27 1998

LORENA E. HOLLIS, CLERK
DEPUTY

SUPERIOR COURT OF WASHINGTON FOR SKAMANIA COUNTY

WILLIAM D. SMITH,

Plaintiff,

vs.

GERALD DILLEY and BARBARA DILLEY,
Husband and Wife, and MICHAEL DILLEY
and SHARON DILLEY, Husband and Wife,

Defendants.

NO. 95-2-00145-1

AMENDED JUDGMENT
QUIETING TITLE

REAL ESTATE EXCISE TAX

19705

AUG 1 1998

PAID Exempt

Trial in this case was held on Thursday, January 29, 1997. Plaintiff and Defendants, Gerald and Barbara Dilley, were personally present in Court. Plaintiff was represented by Robert D. Mitchelson, attorney at law. Defendants by Jan Kielpinski, attorney at law. Defendants, Michael Dilley and Jane Doe Dilley, were dismissed without prejudice as parties upon motion of Plaintiff. Testimony was received, exhibits admitted, and argument by counsel for each side considered.

The Court previously entered Findings of Fact and Conclusions of Law and hereby enters Judgment as follows:

I. JUDGMENT SUMMARY

Gary H. Martin, Skamania County Assessor
Date 8/18/98 Parcel # 2-5-31-4-
700,701

Judgment Summary is set forth below.

A.	Judgment Creditor:	William D. Smith
B.	Judgment Debtor:	Gerald and Barbara Dilley
C.	Attorney's fees:	\$125.00
D.	Costs:	
	Filing Fee:	110.00
	Process service	55.00
	Restraining Order Bond Fee	100.00
E.	Principal judgment shall bear interest at	12% per annum
F.	Attorney for Judgment Creditor:	Robert D. Mitchelson
G.	Attorney for Judgment Debtor:	Jan Kielpinski
	Total Judgment:	\$390.00

JUDGMENT QUIETING TITLE
PAGE 1

ROBERT D. MITCHELSON
P.O. BOX 84096
VANCOUVER, WA 98684-0096
(360) 260-0925 944-1947 (FAX)

II. JUDGMENT

It is hereby ordered, adjudged, and decreed as follows:

1. Title is hereby quieted in favor of the Plaintiff as to all property described in Exhibit "A" attached to this Judgment, and incorporated herein as if fully set forth.
2. It is further ordered, that Plaintiff is the true legal owner of the property described in Exhibit "B", which is also incorporated into this judgment as if fully set forth, and is now the true and lawful owner of the property described in Exhibit "A".
3. Plaintiff is entitled to record a certified copy of this Judgment with the Auditor for Skamania County, Washington, so as to accurately depict the changes in boundary and ownership reflected in this Judgment.
4. This Amendment is not intended to alter or amend any of the terms of the original Judgment Quieting Title entered on the March 13, 1997, except for the correction of the legal description concerning the property dispossessed from Defendants by Plaintiff.
5. The Restraining Order previously entered is dissolved and Plaintiff's bond is exonerated. The Clerk of the Court shall immediately deliver Plaintiff's deposit.
6. Plaintiff is the prevailing party in this action and therefore is entitled to an award of statutory costs and attorney's fees in the sum of \$390.00.

DONE IN OPEN COURT THIS 27th day of Feb, 1998.

New practice to March 13, 1997


JUDGE E. THOMPSON REYNOLDS

PREPARED BY:



ROBERT D. MITCHELSON, WSB# 4595
Attorney for Plaintiff

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Jan 30, 1998
2-5-31LEGAL DESCRIPTION
FOR BILL SMITH
AFFECTED AREA

The following described real property situated in the County of Skamania, State of Washington:

That portion of the Southwest quarter of the Southeast quarter of Section 31, Township 2 North, Range 5 East of the Willamette Meridian described as follows:

Beginning at a point on the West line of the Southeast quarter of said Section 31 which is South $1^{\circ} 39' 43''$ West, 123.88 from the Northwest corner of the Southwest quarter of said Southeast quarter, said point being marked by a $3/4''$ Iron Pipe with brass cap set in R.S. Bk. 3, Pg 30; Thence South $62^{\circ} 15' 10''$ East, 55.27 feet to a found $1/2''$ Iron Bar which falls South $1^{\circ} 48' 35''$ West, 53.95 feet from a $1 1/2''$ Iron pipe used as the Northwest corner of Washougal River Summer Home Tracts; Thence South $62^{\circ} 15' 10''$ East, 646.72 feet to a $1/2''$ Iron Bar set by Hart to mark the Northwest corner of Lot 7, Washougal river Summer Home Tracts; Thence South $0^{\circ} 29' 49''$ East following the West line of Lot 7 as surveyed by Hart, 34.14 feet to the true point of beginning of the tract herein described; Thence South $42^{\circ} 08' 08''$ East, 76.53 feet; Thence South $11^{\circ} 51' 57''$ East, 197.54 feet; Thence South $29^{\circ} 54' 54''$ West following the established mowing line, 179.71 feet to it's intersection with the West line of said Lot 7; Thence North $0^{\circ} 29' 49''$ West along said West line, 401.05 feet to the point of beginning

The above described tract contains 850 square feet.

July 14, 1997
2-5-31LEGAL DESCRIPTION
FOR BILL SMITH
ADJUSTED LOT 6

The following described real property situated in the County of Skamania, State of Washington;

That portion of the Southwest quarter of the Southeast quarter of Section 31, Township 2 North, Range 5 East of the Willamette Meridian described as follows;

Beginning at a point on the West line of the Southeast quarter of said Section 31 which is South $1^{\circ} 39' 43''$ West, 123.88 from the Northwest corner of the Southwest quarter of said Southeast quarter, said point being marked by a $\frac{3}{4}$ " Iron Pipe with brass cap set in R.S. Bk. 3, Pg 30; Thence South $62^{\circ} 15' 10''$ East, 55.27 feet to a found $\frac{1}{2}$ " Iron Bar which falls South $1^{\circ} 48' 35''$ West, 53.95 feet from a $1 \frac{1}{2}$ " iron pipe used as the Northwest corner of Washougal River Summer Home Tracts; Thence South $62^{\circ} 15' 10''$ East, 646.72 feet to a $\frac{1}{2}$ " Iron Bar set by Hart; Thence South $0^{\circ} 29' 49''$ East following the West line of Lot 7 as surveyed by Hart, 34.14 feet to the true point of beginning of the tract herein described; Thence South $42^{\circ} 08' 08''$ East, 76.53 feet; Thence South $11^{\circ} 51' 57''$ East, 197.54 feet; Thence South $39^{\circ} 16' 45''$ West following the established mowing line, 225.80 feet more or less to the main channel of the Washougal River; Thence North $58^{\circ} 50' 03''$ West along said channel, 92.05 feet to a point which is South $14^{\circ} 14' 21''$ West, 408.64 feet; Thence North $14^{\circ} 14' 21''$ East, 408.64 feet to the point of beginning.

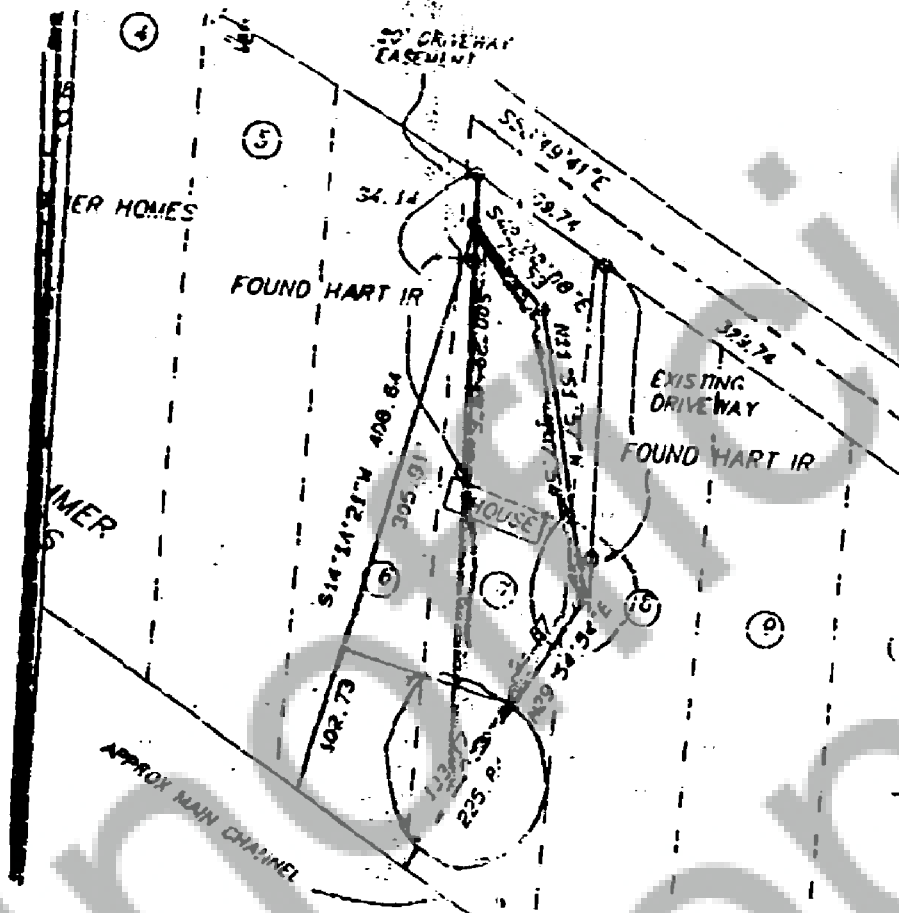
TOGETHER WITH an easement for ingress, egress and utilities, 20 feet in width, described as follows; Beginning at the Hart iron bar described above and running thence South $0^{\circ} 29' 49''$ East, 34.14 feet; Thence South $14^{\circ} 14' 21''$ West, 23.76 feet; Thence North $43^{\circ} 05' 37''$ West, 20.62 feet; Thence North $0^{\circ} 29' 49''$ West, 52.69 feet to the Southerly line of Washougal River Road; Thence South $58^{\circ} 49' 41''$ East along said line 22.70 feet to the point of beginning.

JAN-26-98 FRI 10:30 TON-SHART PLS
Jan-27-98 03:23P mitchelson law office

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BOOK 180 PAGE 394



FROM Bill Smith

BOOK 180 PAGE 395

State of Washington
County of Skamania

SS

I, Lorena E. Hollis, County Clerk of the Superior Court of Skamania County, Washington, DO HEREBY CERTIFY that this is a true and correct copy of the original now on file and of record in my office and, as County Clerk, I am the legal custodian thereof.

Signed and sealed at Stevenson, Washington
this date: _____

LORENA E. HOLLIS, County Clerk

BY: _____ Deputy

COPY

BOOK 180 PAGE 396

SUPERIOR COURT OF WASHINGTON FOR SKAMANIA COUNTY

SKAMANIA COUNTY
ORIGINAL FILED

FEB 27 1998

Lorena E. Hollis, Clerk

WILLIAM D. SMITH,

Plaintiff,

vs.

GERALD DILLEY and BARBARA DILLEY,
Husband and Wife, and MICHAEL DILLEY
and SHARON DILLEY, Husband and Wife,

Defendants.

NO. 95-2-00145-1

AMENDED FINDINGS OF FACT
AND CONCLUSIONS OF LAW

None Gro Tract to
3/13/99

Trial in this case was held on Thursday, January 29, 1997. Plaintiff and Defendants, Gerald and Barbara Dilley, were personally present in Court. Plaintiff was represented by Robert D. Mitchelson, attorney at law, Defendants by Jan Kelpinski, attorney at law. Defendants, Michael Dilley and Jane Doe Dilley, were dismissed without prejudice as parties upon motion of Plaintiff.

Testimony was received, exhibits admitted, and argument by counsel for each side considered, and the Court now enters the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

Gary H. Martin, Skamania County Assessor

Date *9/18/98* Parcel # *2-5-31-4-700, 701*

1.1 The Court has jurisdiction over the subject matter of this action. It involves a dispute over the true and correct boundary line between properties located in Skamania County, Washington.

1.2 Plaintiff is a resident of Skamania County, Washington, and Defendant is a part time resident of Skamania County, Washington.

1.3 Plaintiff bought from Michael Dilley in August of 1981, a residence and out building on what he believed were lots #5 and #6, legally described as:

Lots 5 and 6 of Washougal Summer Home Tracts, according to the official plat thereof on file and of record in Book A of Plats at Page 78, in the office of the Auditor of Skamania County, Washington, in Section 31, Township 2 North, Range 5 East of the Willamette Meridian.

AMENDED FINDINGS OF FACT AND
CONCLUSIONS OF LAW, PAGE 1

ROBERT D. MITCHELSON
P.O. BOX 84096
VANCOUVER, WA 98684-0096
(360) 260-0925 944-1947 (FAX)

Michael Dilley had purchased the same property from his parents several years earlier. It is clear that Michael Dilley believed the house he was selling Plaintiff was on Lot #6.

1.4 Defendants are legal owners of Lot #7 and other property to the east of Plaintiff.

1.5 At time of sale, Michael Dilley believed his property line was approximately five feet east of his house, which meant it ran through a shed at the east end of the house at time of sale to Plaintiff. Michael Dilley pointed out a fir tree to the north, as further evidence of the east line of what he believed to be Lot #6.

1.6 Surveys done by surveyors, Swart and Hart, differ as to where the true east line of Lot #6 is. Both surveyors would indicate either all of the house or a large portion of it is on Lot #7.

1.7 Plaintiff believed his east line was about five feet east of a shed located just east of the east edge of his home. He says he lined up that point, sighted up to a fir tree to the north, which coincided with a pipe somewhat east of the southeast corner of his house.

1.8 As part of the sales transaction, Plaintiff was required to put in his own access road. In August of 1984, he built a road along the line he thought was his. Defendants say they immediately informed Plaintiff of their belief he was over their line and requested that he stop building. Plaintiff did not stop, completed his road and used it continuously from August of 1984 to the present. The driveway ends at a point about two feet west of Defendants' well and pump house. Plaintiff tore down the shed and built a turnaround area and used the turnaround up to a point where he believed his line coincided with a metal pipe he always believed marked his eastern boundary line at a point east of the southeast corner of his house.

1.9 Plaintiff cleared brush and brambles to the north, west, and south of his home, mowed the property continuously over the years, improved and continued to use his driveway, and did so in plain view of Defendants. At one point, Plaintiff offered Defendants \$10,000 for the disputed strip, but Defendants turned down the offer. Defendants from time to time used Plaintiff's driveway for hauling wood to a storage area on the west side of their property. Defendants allowed Plaintiff to cross their property with his riding lawn mower so he could mow a portion of what he believed was his property south of the house between the turnaround and the river. Plaintiff and Plaintiff's friends mowed the property south of his house on a line that ran approximately due south from the east edge of the turnaround. Plaintiff's use by brushing, mowing, building the road, driving on the road, and generally maintaining the property east of the true survey line was actual, open and uninterrupted for a period of 10 years. His possession was exclusive and Defendants' occasional use was neighborly courtesy and common in the neighborhood.

1.10 Plaintiff's possession was not hidden and was at all times obvious to Defendants, who did nothing during the 10 year period to quiet title in their favor. Defendants were aware that Plaintiff tore down an existing shed in the disputed strip. They testified they

AMENDED FINDINGS OF FACT AND
CONCLUSIONS OF LAW, PAGE 2

ROBERT D. MITCHELSON
P.O. BOX 84096
VANCOUVER, WA 98684-0096
(360) 260-0925 944-1947 (FAX)

were aware of the road building, the mowing and the clearing. Therefore his possession was hostile.

1.11 Plaintiff's use was not permissive. Defendants testified they always insisted the disputed property was theirs and settlement negotiations for purchase took place from time to time. Defendant testified he had, on numerous occasions, gone out with Defendants and others, trying to establish where a correct line would be in his opinion. Plaintiff never retreated from his line of use and occupation, even with knowledge that Defendants disagreed as to where the true line was.

II. CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Court concludes as follows:

2.1 Plaintiff is entitled to a judgment quieting title to a portion of Lot #7, having acquired it by adverse possession.

2.2 The property adversely possessed is all property east of the line the Hart' survey determined to be the correct east line of Lot "6", which is described in Exhibit "A", attached to these Conclusions and the Judgment and incorporated into these Conclusions and Judgment as if fully set forth therein.

2.3 It is intended that Exhibit "A" be a correct legal description of all property contained within the area dispossessed by Plaintiff from Defendants and that the Judgment, including the Exhibit, be recorded with the Auditor for Skamania County.

2.4 Defendant is required to remove his fence from Plaintiff's property not later than May 15, 1997.

DONE IN OPEN COURT this 27th day of Feb, 1998.

Nunc pro tunc to March 13, 1997

/s/ E. THOMPSON REYNOLDS

JUDGE E. THOMPSON REYNOLDS

Presented by:

Agreed to entry:

Robert D. Mitchelson
ROBERT D. MITCHELSON, WSB# 4595
Attorney for Plaintiff

JAN KIPLINSKI, WSB#
Attorney for Defendants

AMENDED FINDINGS OF FACT AND
CONCLUSIONS OF LAW, PAGE 3

ROBERT D. MITCHELSON
P.O. BOX 84096
VANCOUVER, WA 98684-0096
(360) 260-0925 944-1947 (FAX)

BOOK 180 PAGE 399



Jan 30, 1998
2-5-31

LEGAL DESCRIPTION
FOR BILL SMITH
AFFECTED AREA

The following described real property situated in the County of Skamania, State of Washington;

That portion of the Southwest quarter of the Southeast quarter of Section 31, Township 2 North, Range 5 East of the Willamette Meridian described as follows;

Beginning at a point on the West line of the Southeast quarter of said Section 31 which is South $1^{\circ} 39' 43''$ West, 123.88 from the Northwest corner of the Southwest quarter of said Southeast quarter, said point being marked by a $3/4''$ Iron Pipe with brass cap set in R.S. Bk. 3, Pg 30; Thence South $62^{\circ} 15' 10''$ East, 55.27 feet to a found $1/2''$ Iron Bar which falls South $1^{\circ} 48' 35''$ West, 53.95 feet from a $1 1/2''$ iron pipe used as the Northwest corner of Washougal River Summer Home Tracts; Thence South $62^{\circ} 15' 10''$ East, 646.72 feet to a $1/2''$ Iron Bar set by Hart to mark the Northwest corner of Lot 7, Washougal river Summer Home Tracts; Thence South $0^{\circ} 29' 42''$ East following the West line of Lot 7 as surveyed by Hart, 34.11 feet to the true point of beginning of the tract herein described; Thence South $42^{\circ} 08' 08''$ East, 76.53 feet; Thence South $11^{\circ} 51' 57''$ East, 197.54 feet; Thence South $29^{\circ} 54' 54''$ West following the established mowing line, 179.71 feet to it's intersection with the West line of said Lot 7; Thence North $0^{\circ} 29' 49''$ West along said West line, 401.05 feet to the point of beginning

The above described tract contains 850 square feet.

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