

SECOND
TRUST DEED

Vol. 77 Page 1956

THIS TRUST DEED, made this 18th day of January, 1977, between MELVIN F. COUNTRYMAN and MAZZIE E. COUNTRYMAN, husband & wife, as Grantor, BEND TITLE COMPANY, as Trustee, and RONALD W. AUSTIN and ANITA G. AUSTIN, husband & wife, as Beneficiary,

WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in Klamath County, Oregon, described as:

All the following described real property situate in Klamath County, Oregon:

S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 16, Township 23 South, Range 10 E.W.M. Together with an easement of 60 feet in width for the purpose of ingress and egress for use in common with others over, upon and across the Westerly 30 feet of the E $\frac{1}{2}$ SE $\frac{1}{4}$ and the Easterly 30 feet of the W $\frac{1}{2}$ SE $\frac{1}{4}$ and the Northerly 60 feet of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and the Easterly 30 feet of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and the Westerly 30 feet of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 16. Subject to an easement over the Easterly 30 feet of the S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 16.

SUBJECT TO:

1. Reservations and restrictions in deed from Harry William Rapp and Elsie Rapp, husband and wife, to Ronald W. Austin and Anita G. Austin, husband and wife, dated October 7, 1975, recorded October 20, 1975, in Volume M75, page 13045, Microfilm records of Klamath County, Oregon, as follows: (Over)

Together with all and singular the benefits, necessaries and appurtenances and all other rights thereunto belonging or in anywise now or hereafter appertaining, and the rents, issues and profits thereof and all fixtures now or hereafter attached to or used in connection with said real estate.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of _____ Dollars, with interest thereon according to the terms of a promissory note of even date herewith, payable to beneficiary or order and made by grantor, the final payment of principal and interest hereof, if not sooner paid, to be due and payable according to terms of note.

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of said note becomes due and payable. In the event the within described property, or any part thereof, or any interest therein is sold, agreed to be sold, conveyed, assigned or alienated by the grantor without first having obtained the written consent or approval of the beneficiary, then, at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or herein, shall become immediately due and payable.

The above described real property is not currently used for agricultural, timber or grazing purposes.

To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain said property in good condition and repair, not to demolish any building or improvement thereon, nor to commit or permit any waste of said property.

2. To complete or restore promptly and in good and workmanlike manner any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefor.

3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting said property; if the beneficiary so requires, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require and to pay for filing same in the proper public office or offices, as well as the cost of all lien searches made by third officers or searching agencies as may be deemed desirable by the beneficiary.

4. To provide and continuously maintain insurance on the building, now or hereafter erected on the said premises against loss or damage by fire and such other hazards as the beneficiary may from time to time require, in companies acceptable to the beneficiary, with loss payable to the latter. All policies of insurance shall be delivered to the beneficiary as soon as insured; if the grantor shall fail for any reason to procure any such insurance and to deliver said policies to the beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on said building, the beneficiary may procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured hereby and in such order as beneficiary may determine, or at option of beneficiary the entire amount so collected, or any part thereof, may be released to grantor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

5. To keep said premises free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against said property before any part of such taxes, assessments and other charges become past due or delinquent and promptly deliver receipts therefor to beneficiary; should the grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by grantor, either by direct payment or by providing beneficiary with funds with which to make such payment, beneficiary may, at its option, make payment thereof and the amount so paid, with interest at the rate set forth in the note secured hereby, together with the obligations described in paragraphs 6 and 7 of this trust deed, shall be added to and become a part of the debt secured by this trust deed, without waiver of any rights arising from breach of any of the covenants hereof and for such payments, with interest as aforesaid, the property hereinbefore described, as well as the grantor, shall be bound to the same extent that they are bound for the payment of the obligation herein described, and all such payments shall be immediately due and payable without notice, and the nonpayment thereof, at the option of the beneficiary, render all sums secured by this trust deed immediately due and payable and constitute a breach of this trust deed.

6. To pay all costs, fees and expenses of this trust including the cost of title search, as well as the other costs and expenses of the trustee incurred in connection with or in enforcing this obligation and trustee's and attorney's fees actually incurred.

7. To appear in and defend any action or proceeding purporting to affect the security rights or powers of beneficiary or trustee; and in any suit, action or proceeding in which the beneficiary or trustee may appear, including any suit for the foreclosure of this deed, to pay all costs and expenses, including evidence of title and the beneficiary's or trustee's attorney's fees; the amount of attorney's fees mentioned in this paragraph 7 in all cases shall be fixed by the trial court and in the event of an appeal from any judgment or decree of the trial court, the grantor further agrees to pay such sum as the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney's fees on such appeal.

It is mutually agreed that:

8. In the event that any portion or all of said property shall be taken under the right of eminent domain or condemnation, beneficiary shall have the right, if it so elects, to require that all or any portion of the monies payable as compensation for such taking, which are in excess of the amount required to pay all reasonable costs, expenses and attorney's fees necessarily paid or incurred by grantor in such proceedings, shall be paid to beneficiary and applied by it first upon any reasonable costs and expenses and attorney's fees, both in the trial and appellate courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby; and grantor agrees, at its own expense, to take such actions and execute such instruments as shall be necessary in obtaining such compensation, promptly upon beneficiary's request.

9. At any time and from time to time upon written request of beneficiary, payment of its fees and the note and the note for the deed and endorsement (in case of full reconveyances, for cancellation), without affecting the liability of any person for the payment of the indebtedness, trustee may

(a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subdivision of such real estate affecting this deed or the lien or charge thereon; (d) reconvey, without warranty, all or any part of the property. The grantor in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustee's fees for any of the services mentioned in this paragraph shall be not less than \$5.

10. Upon any default by grantor hereunder, beneficiary may at any time without notice, either in person, by agent or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in its own name sue or otherwise collect the rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees upon any indebtedness secured hereby, and in such order as beneficiary may determine.

11. The entering upon and taking possession of said property, the collection of such rents, issues and profits or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

12. Upon default by grantor in payment of any indebtedness secured hereby or in his performance of any agreement hereunder, the beneficiary may declare all sums secured hereby immediately due and payable. In such an event and if the above described real property is currently used for agricultural, timber or grazing purposes, the beneficiary may proceed to foreclose this trust deed in equity, as a mortgage in the manner provided by law for mortgage foreclosures. However if said real property is not so currently used, the beneficiary at his election may proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to foreclose this trust deed by advertisement and sale. In the latter event the beneficiary or the trustee shall execute and cause to be recorded his written notice of default and his election to sell the said described real property to satisfy the obligations secured hereby, whereupon the trustee shall fix the time and place of sale, give notice thereof as then required by law and proceed to foreclose this trust deed in the manner provided in ORS 86.740 to 86.795.

13. Should the beneficiary elect to foreclose by advertisement and sale then after default at any time prior to five days before the date set by the trustee for the trustee's sale, the grantor or other person so privileged by ORS 86.760, may pay to the beneficiary or his successors in interest, respectively, the entire amount then due under the terms of the trust deed and the obligations secured thereby, including costs and expenses actually incurred in enforcing the terms of the obligation and trustee's and attorney's fees not exceeding \$50 each) other than such portion of the principal as would not then be due had no default occurred, and thereby cure the default, in which event all foreclosure proceedings shall be dismissed by the trustee.

14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale. The trustee may sell said property either in one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any covenant or warranty express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of the truthfulness thereof. Any person, excluding the trustee, but including the grantor and beneficiary, may purchase at the sale.

15. When trustee sells pursuant to the powers provided herein, trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, including the compensation of the trustee and a reasonable charge by trustee's attorney, (2) to the obligation secured by the trust deed, (3) to all persons having recorded liens subsequent to the interest of the trustee in the trust deed as their interests may appear in the order of their priority and (4) the surplus, if any, to the grantor or to his successor in interest entitled to such surplus.

16. For any reason permitted by law beneficiary may from time to time appoint a successor or successors to any trustee named herein or to any successor trustee appointed hereunder. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers and duties conferred upon any trustee herein named or appointed hereunder. Each such appointment and substitution shall be made by written instrument executed by beneficiary, containing reference to this trust deed and its place of record, which, when recorded in the office of the County Clerk or Recorder of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

17. Trustee accepts this trust when this deed, duly executed and acknowledged is made a public record as provided by law. Trustee is not obligated to accept any instrument of proof of sale under any other deed of trust or of any action or proceeding in which grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee.

NOTE: The Trust Deed Act provides that the trustee hereunder must be either an attorney, who is an active member of the Oregon State Bar, a bank, trust company or savings and loan association authorized to do business under the laws of Oregon or the United States, a title insurance company authorized to insure title to real property of this state, its subsidiaries, affiliates, agents or branches, or the United States or any agency thereof.

3269
1957

Re-recorded to correct legal description

The grantor covenants and agrees to and with the beneficiary and those claiming under him, that he is law-fully seized in fee simple of said described real property and has a valid, unencumbered title thereto (see over)
(cont'd) "This property is not connected to a sewer or septic tank and water is by individual well and is the responsibility and expense of the buyer. The roads are by easement and public dedicated roads to the property and up to the property owners to maintain to Beals Road and that he will warrant and forever defend the same against all persons whomsoever. Which is a country road."***
*** 2. Trust Deed, including the terms and provisions thereof, executed by Ronald W. Austin and Anita G. Austin, husband and wife, as grantors, to Bend Title Company, as trustee, for Harry William Rapp and Elsie Rapp, as beneficiary***

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are:
(a) primarily for grantor's personal, family, household or agricultural purposes (see Important Notice below),
(b) for the purchase of a dwelling, use Stevens-Ness Form No. 1305 or equivalent;
(c) for the purchase of a dwelling, use Stevens-Ness Form No. 1306 or equivalent; If compliance with the Act not required, disregard this notice.

This deed applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, execu-tors, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledgee, of the contract secured hereby, whether or not named as a beneficiary herein. In construing this deed and whenever the context so requires, the masculine gender includes the feminine and the neuter, and the singular number includes the plural.

IN WITNESS WHEREOF, said grantor has hereunto set his hand the day and year first above written.

* IMPORTANT NOTICE: Delete, by lining out, whichever warranty (a) or (b) is not applicable; if warranty (a) is applicable and the beneficiary is a creditor or such word is defined in the Truth-in-Lending Act and Regulation Z, the beneficiary MUST comply with the Act and Regulation by making required disclosures; for this purpose, if this instrument is to be a FIRST lien to finance the purchase of a dwelling, use Stevens-Ness Form No. 1305 or equivalent; if this instrument is NOT to be a first lien, use Stevens-Ness Form No. 1306, or equivalent. If compliance with the Act not required, disregard this notice.
(If the signer of the above is a corporation, use the form of acknowledgment opposite.)

Melvin F. Countryman
Melvin F. COUNTRYMAN
Mazzie E. Countryman
MAZZIE E. COUNTRYMAN

STATE OF OREGON,
County of Deschutes } ss.
1-18, 1977
Personally appeared the above named
MELVIN F. COUNTRYMAN and
MAZZIE E. COUNTRYMAN, husband
and wife,

STATE OF OREGON, County of } ss.
1977
Personally appeared _____ and
each for himself and not one for the other, did say that the former is the
_____ president and that the latter is the
_____ secretary of _____

and acknowledged the foregoing instru-
ment to be their voluntary act and deed.
Before me:
(OFFICIAL SEAL)
Notary Public for Oregon 10-1-1980
My commission expires:

and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in be-hall of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.
Before me:
Notary Public for Oregon
(OFFICIAL SEAL)
My commission expires:

*** dated September 17, 1975, recorded October 20, 1975, in Volume M75, page 13046, Microfilm records of Klamath County, Oregon, to secure the payment of \$14,000.00, which grantors assume and agree to pay.

REQUEST FOR FULL RECONVEYANCE

To be used only when obligations have been paid.

TO: _____, Trustee

The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by said trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of any sums owing to you under the terms of said trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by said trust deed (which are delivered to you herewith together with said trust deed) and to reconvey, without warranty, to the parties designated by the terms of said trust deed the estate now held by you under the same. Mail reconveyance and documents to _____

DATED: _____, 1977

Beneficiary

Do not lose or destroy this Trust Deed OR THE NOTE which it secures. Both must be delivered to the trustee for cancellation before reconveyance will be made.

TRUST DEED

(FORM No. 881)

STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

MELVIN F. COUNTRYMAN

MAZZIE F. COUNTRYMAN

Grantor

RONALD W. AUSTIN

ANITA G. AUSTIN

Beneficiary

AFTER RECORDING RETURN TO

William Leo T. He

SPACE RESERVED
FOR
RECORDER'S USE

INDEXED

FEE \$ 6.00

STATE OF OREGON; COUNTY OF KLAMATH; ss.

STATE OF OREGON

County of KLAMATH } ss.

I certify that the within instru-
ment was received for record on the
3rd day of FEBRUARY, 1977,
at 2:37 o'clock P.M., and recorded
in book M77 on page 1956 or
file reel number 25010
Record of Mortgages of said County.

Witness my hand and seal of
County of _____

WM. D. MILNE
COUNTY CLERK
By _____ Deputy

I hereby certify that the within instrument was received and filed for record on the 24th day of February A.D., 1977 at 2:02 o'clock P.M., and duly recorded in Vol M 77 of Mortgages on Page 3268.

FEE \$6.00

WM. D. MILNE, County Clerk

By _____ Deputy