

27005

CONTRACT OF SALE

38-12247

THIS CONTRACT OF SALE is made and entered into this 18 day of March, 1977, at Klamath Falls, Klamath County, Oregon, by and between WALTER A. DIETZ, hereinafter referred to as "Seller," and DAVID L. DOUD, hereinafter referred to as "Purchaser."

Section 1
Description of Premises

In consideration of the covenants and agreements of the respective parties as hereinafter set forth, Seller agrees to sell and convey to Purchaser and Purchaser agrees to purchase and take from Seller the real property situated in the city of Klamath Falls, county of Klamath, state of Oregon, commonly known as "The Stevens Hotel" and "The Tavern" and particularly described as follows:

All of Lot 5 in Block 36 of the ORIGINAL TOWN OF LINKVILLE, (now City of Klamath Falls), EXCEPTING THEREFROM a strip of land 1 foot in width off the Easterly side of said Lot 5 and a strip of land 3 feet in width off the rear end of said Lot 5 reserved as an alley, Klamath County, Oregon.

together with all improvements thereon and appurtenances thereto and the articles of equipment and other personal property listed in Exhibit "A," attached hereto, but subject to all restrictions, rights of way, easements of record and those apparent on the land. The real and personal property hereinabove described is hereinafter referred to as "property."

Section 2
Purchase Price

The purchase price for the property is Seventy-five Thousand Dollars (\$75,000). The total purchase price of the property is allocated by the parties among the components of property as follows:

Real property	\$73,000
Personal property	2,000

The purchase price for the property shall be payable as follows: Two Thousand Dollars (\$2,000) upon the execution of this agreement, the receipt of which is hereby acknowledged by the Seller; Eighteen Thousand Dollars (\$18,000) to be paid by Purchaser upon the closing of this agreement as hereinafter set forth; the remainder of the purchase price, to-wit: Fifty-five Thousand Dollars (\$55,000) to be paid to the order of the Seller in monthly installments of not less than Four Hundred Fifty Dollars (\$450) per month payable on the 1 day of each month hereafter beginning the first calendar month after closing and continuing until said purchase price is fully paid. All deferred balances of said purchase price shall bear interest at the rate of seven percent (7%) per annum from the date of closing until paid, interest to be paid monthly and being included in the minimum monthly payments above required. No portion of said purchase price may be prepaid within two (2) years of the closing of this agreement; thereafter all of said purchase price may be paid at any time. Upon closing and payment of the Eighteen Thousand Dollars (\$18,000) hereinabove provided, the personal

property contained in Exhibit "A" shall be considered paid for in full and a bill of sale shall issue from Seller to Purchaser for said personal property.

Section 3 Condition of Sale

This contract of sale and all obligations contained herein are conditioned upon Purchaser receiving an OLCC license similar to the one presently issued to the business premises known as "The Tavern" which are a portion of the premises which are the subject of this contract of sale. Purchaser shall make every reasonable effort to secure such a license. If the OLCC refuses to issue Purchaser such a license despite Purchaser having made every reasonable effort to secure one, then Purchaser shall be entitled to the return of the Two Thousand Dollars (\$2,000) heretofore paid, subject to expenses incurred by the parties to date.

Section 4 Closing of Contract

Purchaser shall be entitled to possession of property on closing of this contract and may retain such possession of the real property so long as he is not in default under the terms of this contract. Closing of this contract shall occur when Purchaser is notified by the Oregon Liquor Control Commission that he has been issued a license similar to the one presently issued to "The Tavern." Upon receiving such notice, Purchaser shall within five (5) days deposit in the trust account of Crane & Bailey, Attorneys at Law, 325 Main Street, Klamath Falls, Oregon, Eighteen Thousand Dollars (\$18,000) constituting the remaining balance of the down-payment, together with such sums as may be necessary to assume the insurance and taxes and facilitate the closing as hereinafter set forth. The parties shall thereafter execute all documents necessary for the transfer of said property pursuant to this contract and all documents necessary to initiate an escrow of this contract to be placed with First Federal Savings and Loan Association of Klamath Falls, Oregon.

Section 5 Taxes, Insurance and Liens

Taxes and insurance on said premises for the current year shall be prorated between the parties hereto as of the date of closing. The Purchaser agrees that he will keep the premises free from mechanic's liens and all other liens and save the Seller harmless therefrom and reimburse Seller for all costs and attorney's fees incurred by him in defending against any such liens; that he will pay all taxes hereafter levied against said property as well as all water rents, public charges and municipal liens which hereafter lawfully may be imposed upon said premises, all promptly before the same or any part thereof become past due; that at Purchaser's expense he will insure and keep insured all buildings now or hereafter erected on said premises against loss or damage by fire with extended coverage in an amount not less than Seller presently carries on said premises, in a company or companies satisfactory to the Seller, with loss payable first to the Seller and then to the Purchaser as their respective interests may appear and all policies of insurance to be delivered to the Seller as soon as issued. If the Purchaser shall fail to pay any of such

liens, costs, water rents, taxes or charges, or to procure and pay for such insurance, the Seller may do so and any payment so made shall be added to and become a part of the debt secured by this contract and shall bear interest at the rate aforesaid, without waiver, however, of any right arising to the Seller for Purchaser's breach of contract.

Section 6
Use of Property

Purchaser agrees that at all times he will keep the buildings on said premises now or hereafter erected in good condition and repair and will not suffer or permit any waste or strip thereof. Purchaser has purchased the property solely upon Purchaser's own inspection and the premises are purchased in their present actual condition, and Purchaser has not relied upon any warranties or representations made by the Seller or by any agent of the Seller.

Section 7
Title Insurance and Escrow

A title insurance policy insuring marketable title in and to said premises in the Seller on or subsequent to the date of this contract, save and except the usual printed exceptions and the building and other restrictions and easements now of record, if any, and showing Purchaser's interest as disclosed by this contract, shall be purchased by the parties and the cost thereof shall be divided equally between them. A copy of this contract together with a warranty deed executed by Seller shall be placed in escrow at First Federal Savings and Loan Association of Klamath Falls, 540 Main Street, Klamath Falls, Oregon, with instructions to said escrow agent to deliver said documents to Purchaser upon full payment of the contract according to its terms. Seller and Purchaser shall divide equally the initial cost of said escrow account.

Section 8
Licenses and Fees

The operation of "The Tavern" and of certain machines and entertainment facilities therein entails certain city, state and federal license fees and taxes. All of said licenses and fees which are assignable by Seller to Purchaser shall be assigned as of the date of closing and the fees therefor shall be prorated as of said date. If any license or tax on the operation of a particular machine shall not be assignable by Seller to Purchaser according to the terms of the ordinance or law under which said tax is imposed, the ownership of the machine upon which the tax is imposed shall remain in Seller until January 1, 1978, or such sooner time as said license may be assignable. During the period of ownership by Seller of any of said equipment, Purchaser shall pay to Seller as rental therefor a sum equal to the amount of said license fee as prorated by the period of time left before the expiration of said license.

Section 9
Leases and Rentals

The premises are purchased subject to certain leases and rentals which Purchaser has been apprised of and takes subject to.

Section 10
Assignment

Neither this contract nor any interest herein or in the property shall be assigned, conveyed or transferred in any manner whatsoever, directly or indirectly by Purchaser, nor may possession or control of the premises or any part thereof or interest therein be transferred by Purchaser without written consent of the Seller, provided that Seller shall not withhold such consent unreasonably. Violation of this section shall forfeit Purchaser's interest in this contract upon election and notice by Seller.

Section 11
Seller's Remedies

Time is of the essence of this contract and in case Purchaser shall make the payments above required, or any of them, punctually within ten (10) days of the time limited therefor, or fail to keep any agreement herein contained, then the Seller, at his option, shall have the following rights:

1. To declare this contract null and void;
2. To declare the whole unpaid principal balance of the said purchase price with the interest thereon at once due and payable; and/or
3. To foreclose this contract by suit in equity;

and in any of such cases, possession of the premises above described and all other rights acquired by the Purchaser hereunder shall revert to and revest in said Seller without any act of re-entry, or any other act of said Seller to be performed, and without any right of the Purchaser of return, reclamation or compensation for monies paid on account of the purchase price of said property as absolutely, fully and perfectly as if this contract and such payments had never been made; and in case of such default, all payments heretofore made on this contract are to be retained by and belong to the Seller as the agreed and reasonable rent of said premises up to the time of such default, and the said Seller in case of such default shall have the right immediately, or at any time thereafter, to enter upon the land aforesaid without any process of law and to take immediate possession thereof, together with all of the improvements and appurtenances thereon or thereto belonging. Such right to possession in the Seller shall not be deemed inconsistent with the suit for strict foreclosure, but shall be in furtherance thereof; and in the event Purchaser shall refuse to deliver possession upon the filing of such suit, Purchaser, by the execution of this contract, consents to the entry of an interlocutory order granting possession of the premises to the Seller immediately upon the filing of any suit for strict foreclosure, without the necessity of the Seller posting a bond or having a receiver appointed. In addition to the foregoing remedies, Seller shall have any and all other remedies provided by law.

Purchaser agrees that failure by Seller at any time to require performance by Purchaser of any provision hereof shall in no way affect Seller's right hereunder to enforce the same nor shall any waiver by said Seller of any breach hereof be held to be a waiver of any succeeding breach of any provision, or as a waiver of the provision itself.

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Section 12
Attorney's Fees

In case suit or action is instituted to foreclose this contract or to enforce any of the provisions hereof, the parties agree to pay such sum as the court may adjudge reasonable as attorney's fees to be allowed the prevailing party in said suit or action, and if an appeal is taken from any judgment or decree of the trial court, the parties further promise to pay such sum as the appellate court shall adjudge reasonable as the prevailing party's attorney's fees on such appeal.

Section 13
Notices

Any notice required by this contract or by the laws of the state of Oregon shall be given to Purchaser at Route 1, Box 230, Myrtle Creek, Oregon 97457; or to Seller c/o Mrs. Ray Fesenmaier 518 N. Jefferson, New Ulm, Minn. Each party may advise the other of a change of address in writing and thereafter the party giving notice shall be required to mail said notice to the address given.

Section 14
Preparation of Contract

This contract has been prepared by Crane & Bailey, Attorneys at Law, 325 Main Street, Klamath Falls, Oregon 97601, as attorneys for the Seller. Purchaser acknowledges that he has been advised of his right to seek separate counsel to advise him in this transaction.

IN WITNESS WHEREOF, the parties have signed duplicate originals of this contract of sale on the date first hereinabove written.

Walter A. Dietz
Walter A. Dietz
SELLER

David L. Doud
David L. Doud
PURCHASER

STATE OF OREGON)
County of Klamath) ss.

Personally appeared the above named Walter A. Dietz and acknowledged the foregoing contract of sale to be his voluntary act and deed this 18 day of March, 1977.

Donald R. Crane
Notary Public for Oregon
My Commission expires: 6-18-78

STATE OF OREGON)
County of Klamath) ss.

Personally appeared the above named David L. Doud and acknowledged the foregoing contract of sale to be his voluntary act and deed this 18 day of March, 1977.

Donald R. Crane
Notary Public for Oregon
My Commission expires: 6-18-78

AFTER RECORDING, return to: Donald R. Crane, Crane & Bailey, 325 Main Street, Klamath Falls, OR 97601

EXHIBIT A

FURNISHINGS AND FIXTURES OF STEVENS
HOTEL AND TAVERN

ROOMS:

101 -	1 DOUBLE BED	1 MEDICINE CABINET
	1 END TABLE	1 UPHOLSTERED CHAIR (FABRIC)
	1 DRESSER	1 BED SPRING
	1 DESK	1 MATTRESS
	1 UPHOLSTERED CHAIR (PLASTIC)	1 TABLE LAMP
102 -	1 DESK	1 BED (SPRING & MATTRESS)
	1 CHAIR	1 MED. CHEST
	1 DRESSER	
103 -	1 BED (SPRING & MATTRESS)	1 DRESSER
	1 END TABLE	1 CHAIR
	1 DESK & BENCH	1 MED. CABINET
104 -	1 DOUBLE BED	1 STAND
	1 DRESSER	1 FLOOR LAMP
	1 CHAIR	
105 -	2 DOUBLE BEDS (SPRINGS & MATTRESS)	2 END TABLES
	1 DRESSER	1 TABLE LAMP
	2 CHAIRS	
106 -	1 DOUBLE BED (SPRING & MATTRESS)	1 BED STAND
	1 DRESSER	1 FLOOR LAMP
107 -	1 DOUBLE BED	1 CHAIR
	1 DRESSER	1 FLOOR LAMP
108 -	1 BED (SPRING & MATTRESS)	1 DESK
	1 END TABLE	1 DRESSER
	1 FLOOR LAMP	1 CHAIR
	1 UPHOLSTERED CHAIR	1 MED. CABINET
109 -	1 BED (SPRING & MATTRESS)	2 CHAIRS
	1 FLOOR LAMP	1 DRESSER
	1 DESK	1 MED. CABINET
110 -	1 BED (SPRING & MATTRESS)	1 DRESSER & DRESSER LAMP
	1 CHAIR	1 MED. CABINET
111 -	1 BED (SPRING & MATTRESS)	1 CHAIR
	1 END TABLE	1 MED. CABINET
	1 TABLE LAMP	1 SCATTER RUG
	1 DRESSER	

1	112 - 1 DOUBLE BED (SPRING & MATTRESS)	1 END TABLE
2	1 CHAIR	1 TABLE LAMP
3	1 DESK	1 MED. CABINET
4	1 DRESSER	
5	113 - 1 DOUBLE BED (SPRING & MATTRESS)	1 SMALL BENCH
6	2 CHAIRS	1 FLOOR LAMP
7	1 DESK	
8	114 - 1 DOUBLE BED (SPRING & MATTRESS)	1 DESK & BENCH
9	1 SINGLE BED (" & ")	1 END TABLE
10	2 UPHOLSTERED CHAIRS	1 MED. CABINET
11	1 FLOOR LAMP	
12	115 - 1 BED (SPRING & MATTRESS)	1 DRESSER LAMP
13	1 DRESSER	1 MED. CABINET
14	116 - 2 SINGLE BED (SPRINGS & MATTRESSES)	1 FLOOR LAMP
15	1 DESK	1 SCATTER RUG
16	1 DRESSER	1 MED. CABINET
17	1 CHAIR	
18	117 - 1 DOUBLE BED (SPRING & MATTRESS)	1 DRESSER
19	3 CHAIRS	1 FLOOR LAMP
20	1 DESK	1 MED. CABINET
21	118 - 1 DOUBLE BED (SPRING & MATTRESS)	1 FLOOR LAMP
22	1 DRESSER	1 CHAIR
23	1 DESK	1 MED. CABINET
24	1 END TABLE	
25	119 - 1 DOUBLE BED (SPRING & MATTRESS)	1 END TABLE
26	1 SINGLE BED (SPRING & MATTRESS)	1 DESK
27	1 DRESSER	1 FLOOR LAMP
28	2 CHAIRS	1 TABLE LAMP
29	1 SMALL CHAIR	
30	120 - 2 DOUBLE BEDS (SPRINGS & MATTRESS)	1 DESK
31	1 END TABLE	1 DRESSER
32	1 TABLE LAMP	1 MED. CABINET
33	2 CHAIRS	
34	121 - 1 DOUBLE BED (SPRING & MATTRESS)	1 BED STAND
35	1 SINGLE BED (SPRING & MATTRESS)	1 CHAIR
36	1 VANITY DRESSER & BENCH	1 TABLE LAMP
37	122 - Pete Jones - 1 SINGLE BED (SPRING & MATTRESS)	
38	1 END TABLE	
39	1 DRESSER	
40	1 CHAIR	
41	<u>KITCHEN</u>	
42	1 TABLE	1 REFRIGERATOR (OLD G.ELEC.)
43	3 UPHOLSTERED CHAIRS	1 DESK
44	1 CROCK CHAIR	1 WOODEN CHAIR
45	1-3 BURNER TOP SING. ELEC. RANGE	1 FOLDING BED (COTTON MATTRESS)
46		1 SHELVED DRESSER

DOWNSTAIRS LOBBY

14 UPHOLSTERED CHAIRS
 1 KAYE HALLERT TABLE T.V. & TABLE
 1 HASSOCK
 1 OLD CABINET RADIO (GEN. ELEC.)
 1 LOBBY SCREEN

3 TABLE LAMPS
 3 END TABLES
 5 ASH TRAY STANDS
 1 DAVENPORT
 1 END TABLE

UPSTAIRS LOBBY

1 ROLLAWAY BED & MATTRESS
 1 SCREEN
 6 UPHOLSTERED CHAIRS
 1 BOOK STAND

2 END TABLES
 2 TABLE LAMPS
 1 DESK
 1 WALL PICTURE

TAVERN:

Air Conditioner
 Counter and 18 stools
 1 Back bar
 1 Bottle cooler
 2 Spigots (plus beer case)
 5 booths
 4 tables
 1 cash register
 2 chairs

1 KIRBY VACUUM CLEANER & ATTACHMENTS
 1 SHOWER BENCH (LADIES SHOWER)

1 LARGE NEON SIGN (STEVENS HOTEL)

1 Safe
 1 Reach-in stainless steel ice box
 2 Walk-in coolers (one stainless steel)
 1 Floor polisher (broken)
 1 Lamp table
 4 Compressors TTYW
 adding machine

1- ROCKOLA MUSIC MACHINE

1- AMERICAN SHUFFLEBOARD

1- " CLASSIC POOL TABLE

✓ T.V. SET

1- COFFEE PERCOLATOR

1- DEEP FREEZE

1- FRIGIDAIRE WASHING MACH.

2- 3 BURNER ELEC. STOVES

AGREEMENT ON DATE OF CLOSING

IT IS HEREBY AGREED by and between WALTER A. DIETZ and DAVID L. DOUD, the Seller and Purchaser respectively to a contract of sale dated March 18, 1977, that the date of closing for the contract hereinabove referred to be April 10, 1977, and that all applicable charges, licenses, taxes and interest shall be calculated as of said date of closing.

IN WITNESS WHEREOF, we have hereunto set our hands this 11 day of April, 1977.

Walter A. Dietz David L. Doud
Walter A. Dietz David L. Doud

STATE OF OREGON)
) ss.
County of Klamath)

I, Walter A. Dietz, being first duly sworn, depose and say that I am the Seller in the captioned agreement and the information contained herein is true to the best of my knowledge.

Subscribed and sworn to before me this 11 day of April, 1977.

Walter A. Dietz
Notary Public for Oregon
My Commission expires: 6-18-78

STATE OF OREGON)
) ss.
County of Klamath)

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Trans*
I, David L. Doud, being first duly sworn, depose and say that I am the Purchaser in the captioned agreement and the information contained herein is true to the best of my knowledge.

Subscribed and sworn to before me this 11 day of April, 1977.

David L. Doud
Notary Public for Oregon
My Commission expires: 6-18-78

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 11th day of APRIL 1977 at 4:17 o'clock P M., and duly recorded in Vol. M 77, of DEEDS on Page 6053.

FEE \$ 27.00

WM. D. MILNE, County Clerk
By Hazel Draz Deputy