

FILED

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON 5 o'clock P.M.

2 FOR THE COUNTY OF KLAMATH JUL 13 1977

3 MARY JANE MACARTNEY,] No. 76-173 H. D. Milne, Clerk
4 Plaintiff,] By James H. Milne Deputy5 vs.]
6 JOHN O. HALVORSEN, et al,]
7 Defendant.] DECREE
entered in Journal No. m-17
at Page 74568 THIS MATTER coming on before the Court upon the
9 Stipulation of the Plaintiff and the Defendant, City of
10 Klamath Falls, a Municipal Corporation,11 NOW, THEREFORE, IT IS HEREBY DECREED that the attached
12 Stipulation be and the same is hereby approved and made a part
13 of this Decree.14 IT IS FURTHER HEREBY ORDERED that the suit be dismissed
15 as to the individual persons named as Defendants.16 IT IS FURTHER HEREBY ORDERED that the above Decree is
17 with prejudice and without cost to any of the parties.18 DATED this 13th day of July, 1977.19
20 Donald A. Piper
21 Circuit Judge

22

23

24

25

26

12471 A

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
2 FOR THE COUNTY OF KLAMATH

3 MARY JANE MACARTNEY,] No. 76-172E
4 Plaintiff,]
5 vs.]
6 JOHN O. HALVORSEN, et al]
7 Defendant.]

7457

STIPULATION

8 WHEREAS, on the 15th day of September, 1926, RUFUS S.
9 MOORE and CLARA A. MOORE, his wife, and MARY L. MOORE, widow of
10 CHAS. S. MOORE, conveyed to the City of Klamath Falls, Oregon,
11 the real property described in the Deed set forth in Exhibit
12 "A" attached hereto and made a part hereof, known as MOORE PARK:

13 TO HAVE AND TO HOLD the above described and granted
14 premises unto the City of Klamath Falls, Oregon and
15 its successors, so long as they are used, improved
16 and maintained exclusively as a City Park as a
memorial to the pioneers of Klamath Falls, Oregon
and Klamath County, Oregon.

17 WHEREAS, the Plaintiff as an heir at law of Grantors,
18 has filed a suit to enforce the terms and conditions of said
19 grants; and,

20 WHEREAS, the City of Klamath Falls now owns the property
21 adjoining Moore Park to the West, known as LYNNEWOOD SUBDIVISION;
22 and,

23 WHEREAS, the Plaintiff contends that the fenceline is the
24 common boundary line between Moore Park and Lynnewood Subdivision
25 and the Defendants contend that the range line is the common
26 boundary line between Moore Park and Lynnewood Subdivision; and,

PROCTOR & PUCKETT
ATTORNEYS AT LAW
280 MAIN STREET
KLAMATH FALLS, OREGON 97601

Stipulation
Page -1-

'77 JUL 14 PM 2 11

12172

7458

1 WHEREAS, the parties desire to settle this matter.

2 NOW, THEREFORE, IT IS STIPULATED between the Plaintiff

3 and the Defendant, City of Klamath Falls, as follows:

4 1. To resolve the location of the boundary line, Defendant
5 City of Klamath Falls, agrees to transfer for the benefit of
6 Moore Park a scenic easement sixteen feet in width West of and
7 parallel and adjacent to the Township line between Township 38
8 South, Range 8 and Township 38 South, Range 9, East of the
9 Willamette Meridian, as established by the survey No. 1838 on
10 file in the County Surveyor's office Klamath County, Oregon,
11 (being the Westerly Boundary of Moore Park and the Easterly Boundary
12 of Lynnewood Subdivision), along the Easterly Boundary of said
13 parcel shown on said survey, (being a distance of 2,666.67 feet).
14 Said easement is located in Sections 25 and 36, Township 38
15 South, Range 8 East of the Willamette Meridian. Defendant,
16 City of Klamath Falls, further agrees to place suitable monuments
17 on the average of every 150 feet on the Westerly boundary line
18 of the scenic easement designating Moore Park. A scenic ease-
19 ment means the right to control the use of land including the
20 air space above such land for the benefit of protecting the scenic
21 view to and from Moore Park, and for other park purposes, but
22 such control does not affect any use granted prior to the date
23 of this Stipulation.

24 2. Defendant, City of Klamath Falls, agrees that a portion
25 of the road known as "Vista Way" constructed upon Moore Park to
26 the Lynnewood Subdivision be vacated, closed and of no further

12173

7459

1 use, except for existing water utilities.

2 3. Defendant City of Klamath Falls agrees to landscape
3 the rock face and said closed road located on the Northwest
4 corner of Exhibit "A" as budget funds are available.

5 4. DEFENDANT, CITY OF KLAMATH FALLS, ENTERS INTO THIS
6 STIPULATION FOR THE PURPOSES OF SETTLING THE LAWSUIT, SPECIFICALLY
7 DENIES ANY WRONGDOING ON ITS PART, OR ON THE PART OF ANY DEFENDANT,
8 INDIVIDUALLY, AND SPECIFICALLY REAFFIRMS ITS POWERS AS A MUNICIPAL
9 CORPORATION.

10 5. Parties agree that judgment will be entered upon
11 this Stipulation and that the suit be dismissed as to the
12 individual Defendants.

13 DATED This 23rd day of June, 1977.

14
15 PLAINTIFF:

Mary Jane Macartney
Mary Jane Macartney

16
17
18 DEFENDANT:

CITY OF KLAMATH FALLS, OREGON,

19
20

By: George C. Elbert
Mayor

21
22

By: Arnold Lusk
Recorder

23
24 Approved:

25 Leag. W. Smith
26 Attorney for Plaintiff

1

2 Approved:

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

B. J. Mader
City Attorney

William F. Brown

12/74
7460

PROCTOR & PUCKETT
ATTORNEYS AT LAW
280 MAIN STREET
KLAMATH FALLS, OREGON 97601

Stipulation
Page -4-

Vol 75 P. 531 & 532

12175

7461

976071

Rufus S. Moore, et alv
to
City of Klamath Falls, Oregon.

KNOW ALL MEN BY THESE PRESENTS, That Rufus S. Moore and Clara A. Moore, his wife, and Mary L. Moore, widow of Chas. S. Moore, of Klamath Falls, County of Klamath, State of Oregon, without any consideration to them paid by the City of Klamath Falls, a municipal corporation in the County of Klamath, State of Oregon, by these presents do grant, and convey unto the said City of Klamath Falls, and its successors, all the following bounded and described real property, situate in the County of Klamath and State of Oregon:

Beginning at the southwest corner of section thirty (30) Township Thirtysix South, Range Nine East (T. 36 S. R. 9 E.) of Willamette Meridian, Oregon; Thence east along the section line between sections thirty (30) and thirty-one (31), 49 chains to the quarter section corner between sections 30 and 31; thence North twice as section and thirty minutes west (N. 12°30' W.) 36.61 chains to point on south boundary line of the Rock Creek Highway S. 56°30' W. 10 chains; said south line of the Rock Creek Highway S. 56°30' W. 9.87 chains to thence N. 07° W. 14.00 chains; thence N. 77° E. W. 9.87 chains to the township line between sections 23 and 20; thence S. 0° W. W. along the township line 02.00 chains to the place of beginning, containing 114.36 acres, more or less, subject to all existing encumbrances heretofore made by the grantors with the United States, together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining, and also all our right, title and interest, in and to the same, including dower and claim of dower.

This grant shall take effect (subject to the provisions hereinafter set forth) upon the erection by the grantee of a substantial fence along the south and east boundaries of said tract.

TO HAVE AND TO HOLD the above described and granted premises unto the City of Klamath Falls, Oregon, and its successors, so long as they are used, improved and maintained exclusively as a city park as a memorial to the pioneers of Klamath Falls and Klamath County, Oregon.

IN WITNESS WHEREOF, the grantors above named hereunto set their hands and seals this 15th day of September, A. D. 1926.

WITNESSES:

LLOYD L. PORTER
GEORGE W. MC INTYRE.

RUFUS S. MOORE (SEAL)
CLARA A. MOORE (SEAL)
MARY L. MOORE (SEAL)

STATE OF OREGON } ss.
COUNTY OF KLAMATH }

BE IT REMEMBERED, That on this 15th day of September, A. D. 1926, before me, the undersigned, a Notary Public for Oregon, in and for said county and state, personally appeared the within named Rufus S. Moore and Clara A. Moore, his wife, and Mary L. Moore, widow of Chas. S. Moore, who are known to me to be the identical individuals described herein who executed the within instrument, and acknowledged to me that they executed the same freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal the day and year last above written.

LLOYD L. PORTER.
Notary Public for Oregon.
My commission expires August 29, 1927

Filed and recorded June 6th A. D. 1927 at 3:20 o'clock P. M.

C. R. DeLap, County Clerk
Deputy.

Exhibit "A"

Lamin

12176

STATE OF OREGON; COUNTY OF KLAMATH; ss.
for record ~~XXXXXX~~
is 11 day of July A. D. 1977 at 2:15 clock P.M., and
uly recorded in Vol. M 77, of Deeds on Page 12171
Wm D. MILNE, County Clerk
Fee \$18.00 By Pat McCullough

Ret. Louse