

36548

CONTRACT—REAL ESTATE

Vol. 77 Page 18410

THIS CONTRACT, Made this 12 day of September, 1977, between CLOYD L. BRILEY

and HERBERT TRAYLOR and DIANA K. TRAYLOR, husband and wife

WITNESSETH: That in consideration of the mutual covenants and agreements herein contained, the seller agrees to sell unto the buyer and the buyer agrees to purchase from the seller all of the following described lands and premises situated in Klamath County, State of Oregon, to-wit: Lots 10 and 11 in Block 4 Tract 1019 WINEMA PENINSULA UNIT #2, Klamath County, Oregon.

Subject, however, to the following:

1. Taxes for the year 1977-78 are now a lien but not yet payable.
2. Restrictions, but omitting restrictions, if any, based on race, color, religion or national origin as shown on the recorded plat of Winema Peninsula Unit #2.
3. Set back provisions as delineated on the recorded plat, 25 feet from front lot line and 20 feet from back and side lot lines.
4. Utility easements as delineated on the recorded plat along back and side lot lines being 16 feet in width.
5. Unrecorded Contract of Sale dated May 28, 1972, by and between Winema Peninsula Inc., an Oregon corporation, Seller, and Cloyd L. Briley, Buyer, which Contract is not assumed by Buyers, and Seller covenants to and with Buyers that he will hold them harmless therefrom, and Seller further covenants to and with Buyers that the said prior contract shall be paid in full prior to, or at the time this contract is fully paid and that said above described real property will be released from the lien of said mortgage upon payment of this contract;

for the sum of Five Thousand and NO/100 Dollars (\$5,000.00) (hereinafter called the purchase price), on account of which One Thousand Five Hundred and NO/100 Dollars (\$1,500.00) is paid on the execution hereof (the receipt of which is hereby acknowledged by the seller); the buyer agrees to pay the remainder of said purchase price (to-wit: \$3,500.00) to the order of the seller in monthly payments of not less than Seventy-Five and NO/100 Dollars (\$75.00) each, or more, prepayment without penalty.

payable on the day of each month hereafter beginning with the month of 1977, and continuing until said purchase price is fully paid. All of said purchase price may be paid at any time; all deferred balances of said purchase price shall bear interest at the rate of 7 per cent per annum from September 1977 until paid, interest to be paid monthly and being included in the minimum monthly payments above required. Taxes on said premises for the current tax year shall be pro-rated between the parties hereto as of the date of this contract.

The buyer warrants to and covenants with the seller that the real property described in this contract is (A) primarily for buyer's personal, family, household or agricultural purposes, and (B) not for investment or resale or for other business or commercial purposes.

The buyer shall be entitled to possession of said lands on closing 1977, and may retain such possession so long as he is not in default under the terms of this contract. The buyer 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; that he will keep said premises free from mechanic's liens; that he will pay all taxes hereafter levied against said property, as well as all water rents, public charges and municipal liens which hereinafter may be imposed upon said premises, all promptly before the same or any part thereof become past due; that at buyer'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 \$ none. In a company or companies satisfactory to the seller, with loss payable first to the seller and then to the buyer as their respective interests may appear and all policies of insurance to be delivered to the seller as soon as insured. Now if the buyer shall fail to pay any 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 buyer's breach of contract.

The seller agrees that at his expense and within 30 days from the date hereof, he will furnish unto buyer a title insurance policy insuring (in an amount equal to said purchase price) marketable title in and to said premises in the seller on or subsequent to the date of this agreement, save and except the usual printed exceptions and the building and other restrictions and easements now of record. If any Seller also agrees that when said purchase price is fully paid and upon request and upon surrender of this agreement, he will deliver a good and sufficient deed conveying said premises in fee simple unto the buyer, his heirs and assigns, free and clear of encumbrances as of the date hereof and free and clear of all encumbrances since said date placed, permitted or arising by, through or under seller, excepting, however, the said easements and restrictions and the taxes, municipal liens, water rents and public charges so assumed by the buyer and further excepting all liens and encumbrances created by the buyer or his assigns.

(Continued on reverse)

IMPORTANT NOTICE: Delete, by lining out, whichever phrase and whichever warranty (A) or (B) is not applicable. If warranty (A) is applicable and if the seller is a creditor, at such time as is defined in the Truth-in-Lending Act and Regulation Z, the seller MUST comply with the Act and Regulation by making required disclosures. For this purpose, use Stevens-Ness Form No. 1306 or similar unless the contract will become a first lien to finance the purchase of a dwelling in which event use Stevens-Ness Form No. 1207 or similar.

BRILEY

SELLER'S NAME AND ADDRESS

TRAYLOR

BUYER'S NAME AND ADDRESS

Transamerica Title Ins. Co.
500 Main Street
Klamath Falls, OR 97601

NAME, ADDRESS, ZIP

Until a change is requested all tax statements shall be sent to the following address.

Mr. and Mrs. Herbert Traylor
1100 Lassen Avenue
Modesto, CA 95351

NAME, ADDRESS, ZIP

STATE OF OREGON,

County of

I certify that the within instrument was received for record on the day of 1977 at o'clock P.M., and recorded in book on page or as file/reel number.

Record of Deeds of said county. Witness my hand and seal of County affixed.

By Recording Officer Deputy

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payments above required, or any of them, punctually within ten days of the time limited thereby, 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 said purchase price with the interest thereon at once due and payable and/or (3) to sue this contract by suit in equity, and in any of such cases, all rights and interest created or then existing in favor of the buyer as against the seller hereunder shall utterly cease and determine and the right to the possession of the premises above described and all other rights acquired by the buyer hereunder shall revert to and remain in the seller without any act of re-entry, or any other act of said seller to be performed and without any right of the buyer of return, reclamation or compensation for moneys paid on account of the purchase 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 theretofore made on this contract are to be retained by and belong to said 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 take immediate possession thereof, together with all the improvements and appurtenances thereon or thereto belonging.

The buyer further agrees that failure by the seller at any time to require performance by the buyer of any provision hereof shall in no way affect his right hereunder to enforce the same, nor shall any waiver by said seller of any breach of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$5,000.00.

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

In construing this contract, it is understood that the seller or the buyer may be more than one person; that if the contest so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter; and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, said parties have executed this instrument in duplicate; if either of the undersigned is a corporation, it has caused its corporate name to be signed and its corporate seal affixed hereto by its officers duly authorized thereunto by order of its board of directors.

Cloyd L. Briley
CLOYD L. BRILEY

Herbert Traylor
HERBERT TRAYLOR

Diana K. Traylor
DIANA K. TRAYLOR

NOTE—The sentence between the symbols (S). If not applicable, should be deleted. See ORS 93.030.

STATE OF OREGON, County of

County of COLUSA, 1977.

September 12, 1977.

STATE OF OREGON, County of

Personally appeared

Personally appeared the above named Cloyd L. Briley

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 instrument to be his

voluntary act and deed.

Before me:

(OFFICIAL SEAL) E. D. White

Notary Public for Oregon

My commission expires

(OFFICIAL SEAL)

E. D. WHITE JR.

NOTARY PUBLIC, CALIFORNIA

My Commission Expires Oct. 8, 1979

Section 4 of Chapter 618, Oregon Laws 1975, provides:

"(1) All instruments contracting to convey fee title in any real property, at a time more than 12 months from the date that the instrument is executed and the parties are bound, shall be acknowledged, in the manner provided for acknowledgment of deeds, by the owner of the title being conveyed. Such instruments, or a memorandum thereof, shall be recorded by the conveyer not later than 15 days after the instrument is executed and the parties are bound thereby.

"(2) Violation of subsection (1) of this section is a Class B misdemeanor."

(DESCRIPTION CONTINUED)

CALIFORNIA

STATE OF OREGON,

County of Stanislaus

BE IT REMEMBERED, That on this 12th day of September, 1977,

before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within

named HERBERT TRAYLOR and DIANE K. TRAYLOR, husband and wife

known to me to be the identical individuals described in and who executed the within instrument and

acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

(OFFICIAL SEAL)
NANCY L. GOKEY
NOTARY PUBLIC, CALIFORNIA
ALAMEDA COUNTY
My Commission Expires March 3, 1979

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 29th day of

SEPTEMBER A.D., 1977 at 3:40 o'clock P.M., and duly recorded in Vol. M77,

of DEEDS on Page 18410

FEE \$6.00

WM. D. MILNE, County Clerk

By Deputy