

38654

MTC 1396

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KNOW ALL MEN BY THESE PRESENTS, That WAYNE HURLEY BUILDING CO., INC., an Oregon corporation, the party of the first part, for value received, has granted, bargained, sold, assigned, transferred and set over, and by these presents does grant, bargain, sell, assign, transfer and set over unto PADDOCK REAL ESTATE COMPANY, the party of the second part, that certain mortgage (and the obligation thereby secured) dated August 8th, 1977, made and executed by DAVID H. AMES and NANCY K. AMES, husband and wife, to secure the payment of the sum of \$4,900.00, which said mortgage was recorded on August 19th, 1977, in the office of the county clerk, CLARENCE WHITT, of the County of Klamath, State of Oregon, (indicate which), book M77, at page 15249 or as file/reel number \_\_\_\_\_.

Record of Mortgages of said county;

To Have and to Hold the same unto the said party of the second part and the latter's executors, administrators, successors and assigns, subject only to the proviso in the said mortgage mentioned.

And the said party of the first part does hereby covenant to and with the said party of the second part that the said party of the first part is the lawful owner and holder of the said mortgage and the obligation secured thereon and has a good right to sell, transfer and assign the same as aforesaid, and that there is now due and owing upon the said obligation and mortgage the sum of \$4,900.00.

In construing this assignment and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the undersigned assignor has executed this instrument on November 8, 1977; if the undersigned is a corporation, it has caused its name to be signed and sealed by its officers, duly authorized thereto by order of its board of directors.

(If executed by a corporation, affix corporate seal)

STATE OF OREGON, ss.

County of \_\_\_\_\_, 19\_\_\_\_.

Personally appeared the above named \_\_\_\_\_

and acknowledged the foregoing instrument to be \_\_\_\_\_ voluntary act and deed.

(OFFICIAL SEAL)

Notary Public for Oregon  
My commission expires: \_\_\_\_\_

## ASSIGNMENT OF MORTGAGE

TO

AFTER RECORDING RETURN TO

MTC - collect

(DON'T USE THIS SPACE RESERVED FOR RECORDING LABEL IN COUNTIES WHERE USED.)

## STATE OF OREGON

County of Klamath, ss.

I certify that the within instrument was received for record on the 8th day of November, 1977, at 3:09 o'clock PM, and recorded in book M77 on page 21516 or as file/reel number 38654.

Record of Mortgages of said County.

Witness my hand and seal of County affixed.

Wm. D. Milne Recording Officer

By Heidi Drayton Deputy

Fee \$3.00

MTC 4499-B

STEVENSON BUILDING CO., PORTLAND, OR 97204

38655

Vol. 77 Page 24517

THIS CONTRACT Made this 2nd day of November, 1977, between Jimmy R. Cagle and Kathleen L. Cagle, husband and wife, hereinafter called the seller,

and Sallie H. Merkel, hereinafter called the buyer,

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 8 and 9 in Block 5 of LENOX, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

Subject, however, to the following:

1. Sewer use charges, if any, in the Stewart-Lenox Sewer District.

2. Real Estate Contract, including the terms and provisions thereof, dated April 28, 1977, recorded May 2, 1977 in Volume M77, page 7528, Microfilm Records of Klamath County, Oregon, between Hershel Leon Smith and Loretta Nadine Smith, husband and wife, Vendors, and Jimmy R. Cagle and Kathleen L. Cagle, husband and wife, Vendees, which Buyers Cagle and Kathleen L. Cagle, husband and wife, and Sellers further covenant to herein do not assume and agree to pay, and Sellers further covenant 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 contract upon payment of this contract;

for the sum of Seventeen Thousand and No/100ths-----Dollars (\$ 17,000.00) (hereinafter called the purchase price), on account of which Four Thousand and No/100ths-----Dollars (\$ 4,000.00) 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: \$ 13,000.00) to the order of the seller in monthly payments of not less than ONE HUNDRED FIFTY-SEVEN and 74/100THS Dollars (\$ 157.74) each, or more, prepayment without penalty.

payable on the 8th day of each month hereafter beginning with the month of December, 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 8% per cent per annum from November 8, 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 prorated 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 primarily for business or commercial purposes, and that the buyer shall not use the same for any other purpose.

The buyer shall be entitled to possession of said lands on November 8, 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 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, rent, public charges and municipal liens which hereafter lawfully may be imposed upon said premises, all payments before the same or any part thereof become past due that of 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 \$ 100,000.00 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 on or before the date of this agreement. 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 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 and become a part of the debt secured by this contract.

The seller agrees that of his expense and within 30 days from the date hereof, he will furnish unto buyer a title insurance policy inuring (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, 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 from 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, rent and public charges so assumed by the buyer and further excepting all liens and encumbrances created by the buyer for his assigns.

(Continued on reverse)

IMPORTANT NOTICE: Delete, by lining out, whichever phrase and which warranty (A) or (B) is not applicable. If warranty (A) is applicable and if the seller is a creditor, as such word 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 Truth-in-Lending Form No. 1308 or similar unless the contract will become a first lien to finance the purchase of a dwelling in which event use Stevens/Best Form No. 1307 or similar.

SELLER'S NAME AND ADDRESS  
Cagle  
Merkel

BUYER'S NAME AND ADDRESS  
MTC 50624

NAME, ADDRESS, ZIP  
Sallie H. Merkel  
3638 Diamond  
Klamath Falls, Oregon 97601

Until on change is requested all tax statements shall be sent to the following address:

STATE OF OREGON, ss.

County of \_\_\_\_\_, 19\_\_\_\_.

I certify that the within instrument was received for record on the 8th day of November, 1977, at 3:09 o'clock PM, and recorded in book M77 on page 21516 or as file/reel number 38654.

Record of Deeds of said county.

Witness my hand and seal of County affixed.

Wm. D. Milne Recording Officer

By Heidi Drayton Deputy

Fee \$3.00



21518

And it is understood and agreed between said parties that time is of the essence of this contract, and in case the buyer shall fail to make the payments above required, or any of them, punctually within ten 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 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, all rights and interest created or then existing in favor of the buyer as against the seller hereunder shall revert to and vest 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 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 \$17,000.00. ~~However, the actual consideration is the value of the property given or promised which is the whole unpaid principal balance of the purchase price.~~

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 context 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.

*Jimmy R. Cagle*  
Jimmy R. Cagle  
*Kathleen L. Cagle*  
Kathleen L. Cagle

NOTE—The sentence between the symbols ( ), if not applicable, should be deleted.

STATE OF OREGON } ss.  
County of Umatilla

November 5th, 19 77

Personally appeared the above named Kathleen L. Cagle

Cagle, her voluntary act and deed.

and acknowledged the foregoing instrument to be her voluntary act and deed.

Before me:  
(OFFICIAL SEAL) *Walter H. Hargreaves*  
Notary Public for Oregon  
My commission expires 11-13-78

Section 4 of Chapter 618, Oregon Laws 1975, provides:  
(1) All instruments contracting to convey fee title to any real estate and the parties are bound, shall be acknowledged, in the manner prescribed by this act, and a memorandum thereof, shall be recorded by the county clerk.

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

(If executed by a corporation, affix corporate seal)

STATE OF OREGON, } ss.  
County of Klamath  
November 3, 19 77

Personally appeared the above named Jimmy R. Cagle

and acknowledged the foregoing instrument to be his voluntary act and deed.

Before me:  
(OFFICIAL SEAL) *Mildred J. Lewis*  
Notary Public for Oregon  
My commission expires: 7/19/78

(DESCRIPTION CONTINUED)

STATE OF OREGON, } ss.  
County of Klamath

BE IT REMEMBERED, That on this 2nd day of November, 19 77, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Sallie M. Merkel

known to me to be the identical individual described in and who executed the within instrument and acknowledged to me that she 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.

*Mildred J. Lewis*  
Notary Public for Oregon  
My Commission expires 7-19-78

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 8th day of November, A.D., 1977 at 3:09 o'clock P M., and duly recorded in Vol. M77 of Deeds on Page 21517.

FEE \$6.00

WM. D. MILNE, County Clerk  
By *Hazel Drazile* Deputy

FORM NO. 23 — ACKNOWLEDGMENT  
STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.