

EASEMENT

Dated this 26th day of April, 1978.

In consideration of the mutual promises hereinafter made, and in settlement of that certain law suit in the Circuit Court of the State of Oregon for Klamath County entitled "Leo Davis and Mary M. Davis, Plaintiffs, vs. Earnest Smith and Beverly Smith, Defendants, No. 77-758 E;"

Earnest Smith and Beverly Smith, hereinafter called Grantors, convey to Leo and Mary M. Davis, and to the issue of their bodies, hereinafter referred to as Grantees, an exclusive easement to use a strip of land, fee title to which is vested in Grantor, described as follows:

A parcel of land situated in Section 36, T 39 S, R 7 E, W.M. and in Section 31, T 39 S, R 8 E, W.M., all in Klamath County, Oregon and being more particularly described as follows:

Beginning at a point on the East line of said Section 36 from which an iron axle marking the southeast Corner of said Section 36 bears SOUTH, 284.5 feet; thence WEST, 40.00 feet; which point is the point of beginning, from that point of beginning EAST, 40.00 feet; thence continuing EAST, 60.00 feet; thence SOUTH 6'; thence generally WEST to the point of beginning.

which parcel of land is intended to and shall extend to the presently existing fence line between the properties of grantees and grantors.

The terms of this easement are as follows:

1. Grantee, his agents, independent contractors, and invitees shall have exclusive use and enjoyment of the said easement strip.
2. Grantors reserve no rights to the use of the said parcel, until such time as this easement is extinguished according to the terms set out herein.
3. This easement shall extend to and be valid until the death of Grantee Leo Davis, Mary M. Davis, or the issue of their bodies, or until grantees shall convey that parcel of grantee's property to which this easement is appurtenant described as follows:

A parcel of land situated in Section 36, T 39 S, R 7 E, W.M. and in Section 31, T 39 S, R 8 E, W.M., all in Klamath County, Oregon and being more particularly described as follows:

Beginning at a point on the East Line of said Section 36 from which an iron axle marking the Southeast Corner of said Section 36 bears SOUTH, 314.5 feet; thence WEST, 40.00 feet; thence SOUTH, 30.00 feet; thence EAST 40.00 feet to a point on said East Line; thence continuing EAST, 60.00 feet; thence NORTH 30.00 feet; thence WEST, 60.00 feet to the point of beginning containing 0.07 acres more or less.

FURTHER, Grantees above named, Leo Davis and Mary M. Davis, grant unto Grantors hereinabove, Earnest and Beverly Smith, an easement for an over-hanging roof encroachment, to encroach upon the real property described hereinabove.

This easement for encroachment is for the benefit of and appurtenant to the following described real property adjacent thereto:

A portion of the SE 1/4 SE 1/4 of Section 36, Township 39 South, Range 7 E.W.M., and Government Lot 1 of Sec. 31, T 39 S., R. 8 E.W.M., being more particularly described as follows:

Beginning at a point that is North along the section line between said Sections 36 and 31, a distance of 135 feet from the SE 1/4 corner of said Section 36, thence West a distance of 40 feet to a point; thence North parallel to the Section line a distance of 179.5 feet, more or less, to the SW 1/4 corner of that property deeded to Frank Nile, et ux, in Deed Vol. 252 at page 493; thence continuing East a distance of 60 feet to the SE 1/4 corner of that property conveyed to Frank Nile, et ux, in Deed Vol. 315 at page 128, thence South a distance of 179.5 feet to a point that is 60 feet East of the point of beginning, thence West 60 feet to the point of beginning, excluding therefrom that parcel of land described as follows:

A parcel of land situated in Section 36, T 39 S, R 7 E, W.M. and in Section 31, T 39 S, R 8 E, W.M., all in Klamath County, Oregon and being more particularly described as follows:

Beginning at a point on the East Line of said Section 36 from which an iron axle marking the Southeast Corner of said Section 36 bears SOUTH, 314.5 feet; thence WEST, 40.00 feet; thence South, 30.00 feet; thence EAST 40.00 feet to a point on said East Line; thence continuing East, 60.00 feet; thence NORTH 30.00 feet; thence WEST, 60.00 feet to the point of beginning containing 0.07 acres more or less.

This easement, except to the extent said over-hanging roof occupies the property of Leo and Mary M. Davis, shall not affect or limit the use by Leo and Mary M. Davis of their land in any way so long as such use does not undermine, overburden, or weaken the

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footing and the soil underneath. This easement shall remain in force and effect only so long as the presently existant garage structure remains standing, and upon destruction, removal or rebuilding of the said garage, all rights of Earnest and Beverly Smith to an easement for encroachment hereunder shall cease.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed this 26 day of April, 1978.

Earnest Smith
Grantor Earnest Smith

Beverly Smith
Grantor Beverly Smith

Leo F. Davis
Grantee Leo F. Davis

Mary M. Davis
Grantee Mary M. Davis

STATE OF OREGON, County of Klamath) ss.
April 26, 1978.

Personally appeared the above named Earnest Smith and Beverly Smith and acknowledged the foregoing instrument to be their voluntary act and deed.

BEFORE ME:

Richard K. Buchanan
NOTARY PUBLIC FOR OREGON
My Commission Expires 2/20/81

STATE OF OREGON, County of Klamath) ss.
April 26, 1978.

Personally appeared the above named Leo F. Davis and Mary M. Davis and acknowledged the foregoing instrument to be their voluntary act and deed.

BEFORE ME:

Neal S. Buchanan
NOTARY PUBLIC FOR OREGON
My Commission Expires 2/20/81

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 3rd day of May A.D., 19 78 at 4:43 o'clock P M., and duly recorded in Vol. M78 of Deeds on Page 8919.

FEE \$9.00

WM. D. MILNE, County Clerk

By Bernita D. Smith Deputy

filed
P.S. Boy 195
Klamath Co 97627