

49190

CONTRACT - REAL ESTATE

Vol. **78** Page **11435**

THIS CONTRACT, Made this **23rd** day of **May**, 19**78**, between **EARL D. SEIBERT and MARGARET F. SEIBERT, as tenants by the entirety**

and **WILLIAM B. KENNEY and CHERYL M. KENNEY, as tenants by the entirety**

hereinafter called the seller, and 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:

(DEPT)
(CLERK)

Lot 365, Block 122, MILLS ADDITION TO THE CITY OF KLAMATH FALLS, in the County of Klamath, State of Oregon.

179 MAY 30 PM 3 48

for the sum of **Twenty One Thousand Five Hundred and no/100** Dollars (\$ **21,500.00**) (hereinafter called the purchase price), on account of which **Six Thousand and no/100** Dollars (\$ **6,000.00**) 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: \$ **15,500.00**) to the order of the seller in monthly payments of not less than **Two Hundred and no/100** Dollars (\$ **200.00**)

payable on the **1st** day of each month hereafter beginning with the month of **July**, 19**78**, 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 **2%** per cent per annum from **June 1st, 1978** 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 **not less than \$** 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.

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, 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 Stevens-Ness 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-Ness Form No. 1309 or similar.

Earl D. Seibert and Margaret F. Seibert
5100 Going Street
Portland, Oregon 97218

William B. Kenney and Cheryl M. Kenney
415 Addison
Klamath Falls, Oregon 97601

STATE OF OREGON,
County of _____ } ss.
I certify that the within instrument was received for record on the _____ day of _____, 19____, at _____ o'clock _____ M., and recorded in book _____ on page _____ or as file/real number _____
Record of Deeds of said county.
Witness my hand and seal of _____ County affixed.

After recording return to:
John Marlene
NAME, ADDRESS, ZIP
Until a change is requested all tax statements shall be sent to the following address:
William B. Kenney and Cheryl M. Kenney
415 Addison
Klamath Falls, Oregon 97601
NAME, ADDRESS, ZIP

By _____
Recording Officer
Deputy

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 30 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, (3) to withdraw said deed and other documents from escrow, and for (4) 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 utterly cease and 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.

Purchasers agree to pay all taxes and insurance when they become due and payable.

Both Sellers and Purchasers agree that the following personal property shall be included in the total purchase price of \$21,500.00: plants and shrubs, all drapes, and three (3) portable heaters.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$21,500.00. In case suit or action is instituted to foreclose this contract or to enforce any provision hereof, the losing party in said suit or action agrees to pay such sum as the final 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 such trial court, the losing party further promises to pay such sum as the appellate court shall adjudge reasonable as the prevailing party's attorney's fees on such appeal.

IN WITNESS WHEREOF, said parties have executed this instrument in triplicate; 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.

Earl D. Seibert, Margaret F. Seibert, William B. Kenney, Cheryl M. Kenney

NOTE-The sentence between the symbols (), if not applicable, should be deleted. See ORS 93.030.

STATE OF OREGON, Multnomah County of Klamath, May 26, 1978

Personally appeared the above named Earl D. and Margaret F. Seibert, 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 their voluntary act and deed, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

Notary Public for Oregon, My commission expires 12-5-78

ORS 93.035 (1) All instruments contracting to convey fee title to any real property, at a time more than 18 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 conveyor of the title to be conveyed. Such instruments, or a memorandum thereof, shall be recorded by the conveyor not later than 18 days after the instrument is executed and the parties are bound (ORS 93.030) (Violation of ORS 93.035 is punishable upon conviction, by a fine of not more than \$100.)

(DESCRIPTION CONTINUED)

State of Oregon) County of Klamath)

May 23, 1978

Personally appeared the above named William B. and Cheryl M. Kenney and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me: Notary Public for Oregon, My commission expires: 3-22-81

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 30th day of May A.D., 19 78 at 3:48 o'clock P M., and duly recorded in Vol N78 of Deeds on Page 11435.

FEE \$6.00 WM. D. MILNE, County Clerk By Bernetha Helch Danuv