

61882

CONTRACT—REAL ESTATE

Vol. M 79 Page 2488

THIS CONTRACT, Made this 1st day of January, 1979, between
Richard T. Hall and Leroy A. Gienger

and Ken Williams and Sharon Williams, husband and wife, hereinafter called the seller,

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 5 and 6, Block 15, FIRST ADDITION TO THE CITY OF CHILOQUIN, in the County of Klamath, State of Oregon; welding equipment, tire changer, and all station equipment pertaining to the operation of the business known as Dick's Chevron Station.

Subject, however, to the following:

1. City liens, if any, of the City of Chilouquin.

2. Trust Deed, including the terms and provisions thereof, with interest thereon and such future advances as may be provided therein, given to secure the payment of \$14,500.00

Dated August 31, 1978

Recorded September 1, 1978 Book: M-78 Page: 19490

Trustor Richard T. Hall and Leroy A. Gienger

Trustee Transamerica Title Insurance Company

Beneficiary John Phillip Mannering and Ruphane Estelle Mannering,

husband and wife, which Buyers herein do not assume and agree to pay, and Sellers further covenant to and with Buyers that the said prior trust deed 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 (For continuation of this document, see reverse side of this contract.)

for the sum of Forty-five thousand and no/100 Dollars (\$45,000.00) (hereinafter called the purchase price), on account of which Ten thousand and no/100 Dollars (\$10,000.00) 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: \$35,000.00) to the order of the seller in monthly payments of not less than Four hundred forty-three and 38/100 Dollars (\$443.38) each, or more, prepayment without penalty,

payable on the 1st day of each month hereafter beginning with the month of February, 1979, 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 9 per cent per annum from close of escrow January 1, 1979 until paid, interest to be paid monthly and in addition to 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 not primarily for buyer's personal, family, household or recreational purposes.

(B) for an organization or (even if buyer is a natural person) is for business or commercial purposes other than agricultural purposes.

The buyer shall be entitled to possession of said lands on February, 1979, 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 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 rents, public charges and municipal liens which hereafter lawfully 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 \$ full insurable value.

In a company or companies satisfactory to the seller, with loss payable first to the seller and then to the buyer as 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, 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; 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. 1307 or similar.

SELLER'S NAME AND ADDRESS

BUYER'S NAME AND ADDRESS

After recording return to:

T/A Branch

NAME, ADDRESS, ZIP

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

Mr & Mrs Ken Williams

Box 772

Chiloquin Oregon 97624

NAME, ADDRESS, ZIP

STATE OF OREGON,

County of

I certify that the within instrument was received for record on the day of , 1979,

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.

Recording Officer

By 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 decline 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/or (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 terminate, and the right to the possession of the premises above described and all other rights acquired by the buyer, hereunder, shall revert to and be re-vested 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 monies 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.

Waiver of Bulk Sales Law.

Sellers agree to hold the Buyers harmless and indemnify Buyers from any and all liability arising from accounts due and payable up to the time of closing.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 45,000.00. However, the actual consideration consists of or includes other property or value given or promised which is the consideration (in whole or in part) for the transfer.

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 trial 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 construing this contract, it is understood that the seller or the buyer may be more than one person or a corporation; 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.

This agreement shall bind and inure to the benefit of, as the circumstances may require, not only the immediate parties hereto but their respective heirs, executors, administrators, personal representatives, successors in interest and assigns as well.

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.

Richard T. Hall

Leroy A. Geinger

Ken Williams

Sharon Williams

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

STATE OF OREGON

County of Klamath } ss.

January 25, 1979

Personally appeared the above named Richard T. Hall and Leroy A. Geinger

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

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Personally appeared

who, being duly sworn, 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

a corporation, 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.

Before me:

Notary Public for Oregon

My commission expires:

(SEAL)

ORS 93.635 (1) All instruments contracting to convey fee title to 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 conveyor of the title to be conveyed. Such instruments, or a memorandum thereof, shall be recorded by the conveyor not later than 15 days after the instrument is executed and the parties are bound thereby.

ORS 93.990 (8) Violation of ORS 93.635 is punishable, upon conviction, by a fine of not more than \$100.

(DESCRIPTION CONTINUED)

of said trust deed upon payment of this contract.

Allocation of Purchase Price.

It is hereby agreed by and between the parties hereto that the purchase price shall be allocated as follows:

Real Property: \$N/A-To be determined by parties
Personal Property: \$N/A-To be determined by parties subsequent to closing

Indemnification and Liability Insurance.

Buyers shall indemnify and defend Seller from any claim, loss or liability arising out of or related to any activity of Purchaser on the property or any condition of the property.

During the term of this contract, Buyers shall maintain public liability and property damage insurance in a responsible company with limits of not less than \$100,000 for injury to any one person and \$1,000,000 for subsequent injury to two or more persons in one occurrence and \$100,000 for subsequent damage to property. Such insurance shall cover all risks arising directly or indirectly out of Buyers activities on or any condition of the property, whether or not related to an occurrence caused or contributed to by Buyer's negligence and shall protect Sellers against the claims on account of the obligations assumed by Buyers and shall protect Sellers and Buyers against claims of third persons. Certificates evidencing such insurance shall be furnished to Sellers by Buyers.

(See attached Exhibit "A" and by this reference incorporated herein as if fully set forth herein.)

Default.

Time is of the essence of this contract, a default shall occur if:

(a) Buyers fail to make any payment within thirty (30) days after it is due.

(b) Buyers fail to perform any other obligation imposed by this contract and does not correct or commence correction of such failure within thirty (30) days after receipt of written notice from Sellers specifying the manner in which Buyers are in default; or

(c) Buyers become insolvent, a receiver is appointed to take possession of all or a substantial part of Buyers' properties, Buyers make an assignment for the benefit of creditors or file a voluntary petition in bankruptcy, or Buyers are the subject of an involuntary petition in bankruptcy which is not dismissed within 90 days. If Buyer consists of more than one person or entity, the occurrence of any of these events as to any one such person or entity shall constitute a default hereunder.

In the event of a default, Seller may take any one or more of the following steps:

(a) Declare the entire balance of the purchase price and interest immediately due and payable;

(b) Foreclose this contract by suit in equity;

(c) Specifically enforce the terms of this contract by suit in equity;

The remedies provided above shall be nonexclusive and in addition to any other remedies provided by law.

Seller shall be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the property exceeds the amount of the balance due hereunder, and any receiver appointed may serve without bond. Employment by Sellers shall not disqualify a person from serving as receiver. Upon taking possession of all or any part of the property the receiver may:

(a) Use, operate, manage and control and conduct business on property and make expenditures for all maintenance and improvements as in its judgment are proper.

(b) Collect all rents, revenues, income, issues and management.

(c) At Sellers' option, complete any construction in progress on the property, and in that connection pay bills, borrow funds, employ contractors and make any changes in plans or specifications as Seller may deem appropriate.

If the revenues produced by the property are insufficient to pay expenses, the receiver may borrow, from Sellers or otherwise, such sums as it deems necessary for the purposes stated in this paragraph, and repayment of such sums shall be secured by this contract. The amounts borrowed or advanced shall bear interest at the same rate as the balance of the purchase price hereunder from the date of expenditure until repaid and shall be payable by Buyers on demand.

Representations and Condition of Property.

Buyers accept the land, buildings, improvements and all other aspects of the property in their present condition, as is, including latent defects, without any representations or warranties, expressed or implied, unless they are in writing signed by Sellers. Buyers agree that they have ascertained, from sources other than Seller,

the applicable zoning, building and housing and other regulatory ordinances and laws and that they have purchased the property with full awareness of these ordinances and laws as they may affect the present use or any intended future use of the property, and Sellers have made no representations with respect thereto.

Notice.

Any notice under this Contract shall be in writing and shall be effective when actually delivered or when deposited in the mail, addressed to the parties at the addresses stated in this Contract, or such other addresses as either party may designate by written notice to the other.

After the date of this Contract, any notice to Buyers should be sent to the following address:

Box 772

Chiloquin Oregon 97624

Any notice to Sellers should be sent to the following address:

Star Route 1, Box 55

Chiloquin, Oregon 97624

STATE OF ~~OREGON~~ CALIFORNIA
OREGON
County of Klamath ss.

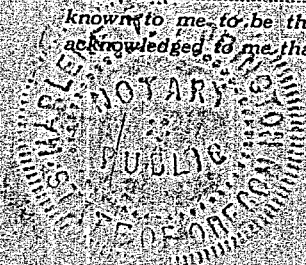
FORM NO. 23 — ACKNOWLEDGMENT
STEVENS-NESE LAW PUB. CO., PORTLAND, ORE.

BE IT REMEMBERED, That on this 26th day of January, 1979, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Ken Williams and Sharon Williams, husband and wife,

known to me to be the identical individual(s) 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.

Barlene P. Aldington
Notary Public for Oregon California
My Commission expires 3-22-81 Oregon



STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Transamerica Title Co.

this 30th day of January A. D. 1979 at 3:24 clock P. M., or

fully recorded in Vol. M79, of Mortgages on Page 2488

Wm D. MILNE, County Clerk

By Bernetha Chetoch

Fee \$12.00