

T/A 38-17283-M

6322

CONTRACT—REAL ESTATE

Vol. 179 Page 4726



THIS CONTRACT, Made this 23rd day of January, 1979, between Theodore Stanke and Mildred T. Stanke, husband and wife,

hereinafter called the seller, and Richard A. Wells and Diane E. Wells, husband and wife, 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:

PARCEL 1

Lot B as shown on the Plat of Chiloquin Acres, filed May 21, 1927, in Klamath County, said subdivision was vacated by order signed December 14, 1951, in the County of Klamath, State of Oregon.

PARCEL 2

A parcel of real property located in the SW 1/4 NW 1/4 of Section 34, Township 34 South, Range 7 East of the Willamette Meridian, in the County of Klamath, State of Oregon, described as follows:

(For continuation of this document, see reverse side of this contract.)

for the sum of Thirty thousand and no/100 Dollars (\$30,000.00) (hereinafter called the purchase price) on account of which Eight thousand seven hundred and no/100 Dollars (\$8,700.00) is paid on the execution hereof (the receipt of which is hereby acknowledged by the seller), and the remainder to be paid to the order of the seller at the times and in amounts as follows, to-wit:

The balance of \$21,300.00 shall be paid in equal annual installments including interest at the rate of 10% per annum commencing 1979, until paid, as follows:

- January 1, 1980--\$7,458.00
- January 1, 1981--\$6,923.00
- January 1, 1982--\$6,390.00
- January 1, 1983--\$5,857.50

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

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 \_\_\_\_\_ per cent per annum from February 1, 1979, until paid, interest to be paid \_\_\_\_\_ annually and \_\_\_\_\_ being included in the minimum regular payments above required. Taxes on said premises for the current tax year shall be prorated between the parties hereto as of February 1, 1979.

The buyer shall be entitled to possession of said lands on or before February 1, 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 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 \_\_\_\_\_ 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; for this purpose, use Stevens-Ness Form No. 1208 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.

79 MAR 2 PM 3 33

SELLER'S NAME AND ADDRESS

BUYER'S NAME AND ADDRESS

After recording return to:

Richard A. & Diane E. Wells  
P. O. Box 249  
Bellflower, California 90706  
NAME, ADDRESS, ZIP

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

Richard A. & Diane E. Wells  
P. O. Box 249  
Bellflower, California 90706  
NAME, ADDRESS, ZIP

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/reel number \_\_\_\_\_.

Record of Deeds of said county.

Witness my hand and seal of \_\_\_\_\_ County affixed.

By \_\_\_\_\_ Recording Officer  
\_\_\_\_\_ Deputy

SPACE RESERVED FOR RECORDER'S USE

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/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 or 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 \$30,000.00. However, the actual consideration consists of or includes other property or value given or promised which is the whole consideration (indicate which)  -

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 and 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.**

*Theodore Stanke*  
Theodore Stanke  
*Mildred T. Stanke*  
Mildred T. Stanke  
*Richard A. Wells*  
Richard A. Wells  
*Diane E. Wells*  
Diane E. Wells

NOTE—The sentence between the symbols Ⓞ, if not applicable, should be deleted. See ORS 93.0301.

STATE OF OREGON, )  
County of Klamath ) ss.  
January 13, 1979

Personally appeared the above named Theodore Stanke and Mildred T. Stanke, husband and wife, and Richard A. Wells, and Diane E. Wells, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

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: *Birdene T. Aldington*  
(OFFICIAL SEAL) Notary Public for Oregon  
My commission expires 3-22-81

Before me: \_\_\_\_\_ (SEAL)  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_

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

(DESCRIPTION CONTINUED)

It is hereby agreed by and between the parties hereto that this contract can be paid off without a prepayment penalty after January 1, 1980.

Beginning at a 2 inch iron pin being the Northwest corner of the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of said Section 34; thence South 89° 40' East a distance of 345 feet; thence South 23° 03' East along the West boundary of West Chocktoot Street, a distance of 200 feet, more or less, to the North boundary line of Forest Ave. (now vacated); thence Westerly along the North boundary line of the said Forest Ave. (now vacated) 410 feet, more or less, to the Southwest corner of Lot 4, Block 1, Chiloquin Acres, vacated; thence Northwesterly along the West line of said vacated Block 1, a distance of 100 feet, more or less, to the West line of Section 34; thence North along the West line of Section 34 to the point of beginning.

Subject, however, to the following:

1. City Liens, if any, due the City of Chiloquin.
2. An easement created by instrument, including the terms and provisions thereof,

Dated : December 5, 1966  
Recorded : December 7, 1966 Book: M-66 Page: 12259  
In favor of : Pacific Power and Light Company, a corporation  
For : Electric transmission and power lines over and across subject property.

(Affects Parcel 2)

3. CONTINUED, see attached Page 3.

PAGE #3, Attached

3. Unrecorded Contract of Sale dated December 15, 1972, in which Darlene F. Wolff is Seller and Theodore Stanke and Mildred T. Stanke, husband and wife are Buyers, which Contract Buyers 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.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Transamerica Title Co.this 2nd day of March A. D. 19 79 at 3:33 o'clock P M., andlegally recorded in Vol. M79, of        Deeds on Page 4726

Wm D. MILNE, County Clerk

By Bernetha M. Ketch

Fee \$9.00