

76714

CONTRACT—REAL ESTATE

Vol. 19 Page 26381

THIS CONTRACT, Made this day of November 9th, 1979, between David L. Cavener

and Jerry O. Anderson and Peggy J. Anderson, husband and wife,

hereinafter called the seller, 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:

Lot 20, Block 7, TRACT 1140, LYNNEWOOD FIRST ADDITION, in the City of Klamath Falls, 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 and water use charges, if any, due to the City of Klamath Falls.
2. Reservations as set forth on plat dedication, to wit:

"Subject to: All building restrictions of the R-75 Zone of the City of Klamath Falls as of the date of recording; Easements as shown on annexed map are dedicated to the City of Klamath Falls for regulation and placement of utilities, said easements to provide ingress and egress for construction and maintenance of said utilities with any planting or structures placed thereon by the lot owner to be at his own risk; Additional restrictions as provided in any recorded protective covenants."

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

for the sum of Fifteen thousand and no/100----- Dollars (\$15,000.00) (hereinafter called the purchase price), on account of which Five thousand and no/100----- Dollars (\$5,000.00) 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: \$10,000.00) to the order of the seller in monthly payments of not less than One hundred forty-five and no/100----- Dollars (\$145.00) each, or more, prepayment without penalty.

payable on the 1st day of each month hereafter beginning with the month of December, 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 8 1/2 per cent per annum from November 9, 1979, 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

(A) primarily for buyer's personal, family, household or agricultural purposes

(B) for an organization or other buyer for a commercial or business purpose other than agricultural purposes

The buyer shall be entitled to possession of said lands on closing 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 full insurable value 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.

(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, an 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-Neess 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-Neess Form No. 1307 or similar.

SELLER'S NAME AND ADDRESS

BUYER'S NAME AND ADDRESS

After recording return to:

Jerry Anderson
1010 Lynwood, K Falls

NAME, ADDRESS, ZIP

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

as above

NAME, ADDRESS, ZIP

STATE OF OREGON,

County of

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.

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 declare the whole unpaid principal balance of said purchase price with 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 rest 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 thereon 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 \$15,000.00. ~~However, the actual consideration for this transfer is the property or interest therein given or promised when the whole consideration (including taxes) is paid.~~

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 contest 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.

David L. Cavener
By: *James H. Cavener*
James H. Cavener, His Attorney-in-fact

Jerry O. Anderson
Jerry O. Anderson
Peggy J. Anderson
Peggy J. Anderson

NOTE: The sentence between the symbols @, if not applicable, should be deleted. See ORS 93.030.

STATE OF OREGON,)
County of Klamath) ss.
November 9th, 1979)

Personally appeared the above named Jerry O. Anderson and Peggy J. Anderson, each for himself and not one for the other, did say that the former is the husband and wife, and that the latter 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 (2) Violation of ORS 93.635 is punishable, upon conviction, by a fine of not more than \$100.

(DESCRIPTION CONTINUED)

3. Covenants, conditions and restrictions, but omitting restrictions, if any, based on race, color, religion or national origin, imposed by instrument, including the terms and provisions thereof, recorded June 9, 1976, in Volume M-76, page 8487, Microfilm Records of Klamath County, Oregon.

4. Trust Deed, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated : February 3, 1978
Recorded : February 28, 1978
Volume : M-78, page 3719, Microfilm Records of Klamath County, Oregon
Amount : \$11,205.00
Grantor : David L. Cavener, a married man as his individual property
Trustee : B. J. Matzen, City Attorney
Beneficiary : City of Klamath Falls, a Municipal corporation, which Buyers herein do not assume and agree to pay, and Seller further covenants 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 of said trust deed upon payment of this contract.

(See attached Exhibit "A" and by this reference incorporated herein.)

FORM No. 159—ACKNOWLEDGMENT BY ATTORNEY-IN-FACT.

STATE OF OREGON,

County of Klamath }

ss.

On this the _____ day of November, 19 79 personally appeared
James H. Cavener
 who, being duly sworn (or affirmed), did say that he is the attorney in fact for David L. Cavener
 that he executed the foregoing instrument by authority of and in behalf of said principal; and he is the
 edged said instrument to be the act and deed of said principal.

(Official Seal)

Before me:

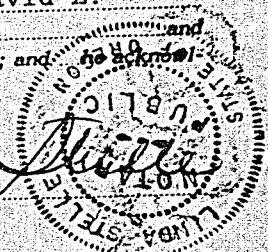


(Signature)

My Commission Expires:

(Title of Officer)

My Commission Expires July 13, 1981



STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Mountain Title Co.this 9th day of November A. D. 19 79 at 10:49 o'clock A. M., andfully recorded in Vol. 479, of Deeds on Page 26381

Wm. D. MILNE, County Clerk

By Bernice A. Detock

Fee \$10.50

EXHIBIT "A"