

TN 88487 20031

CONTRACT-REAL ESTATE

Vol. 178 Page 15608

THIS CONTRACT, Made this 15th day of August, 1980, between J. Claude Bowden and Thelma M. Bowden, husband and wife,

and Emil Kenneth Embrey, 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:

The Westerly 13 feet of Lot 1 and the Easterly 9 feet of Lot 2 in Block 16, ORIGINAL TOWN OF KLAMATH FALLS, (formerly Linkville), Oregon, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning on the Northerly line of Main Street at a point thereon distant 52 feet Southwesterly from the most Easterly corner of Lot 1 of said Block 16; thence Northwesterly at right angles to Main Street 100 feet; thence Southwesterly and parallel with Main Street, 22 feet, more or less, to the center of party wall on the Westerly line of property herein conveyed and Easterly line of property adjoining same on the West side; thence Southeasterly and at right angles to Main Street, 100 feet to Main Street; thence Northeasterly along the Northerly line of Main Street 22 feet, more or less to the point of beginning.

Subject, however, to the following:

1. Regulations, including levies, liens and utility assessments of the City of Klamath Falls.
2. Party Wall Agreement, including the terms and provisions thereof, as disclosed by Warranty Deed recorded May 8, 1930 in Book 91 at (for continuation of this contract see reverse side of this document)

for the sum of Sixty-Five Thousand and No/100ths-----Dollars (\$65,000.00.)

(hereinafter called the purchase price) on account of which Five Thousand and No/100ths-----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: \$60,000.00) to the order of the seller in monthly payments of not less than Five Hundred and No/100ths-----Dollars (\$500.00) each, or more, prepayment without penalty; and a lump sum payment of \$5,000.00 on or before December 31, 1981;

payable on the 10th day of each month hereafter beginning with the month of September, 1980, 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 1/2% per cent per annum from August 15, 1980 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 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

(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 August 15, 1980, 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 premises and the buildings, now or hereafter erected thereon, in good condition and repair and will not suffer or permit any waste or strip thereon; that he will keep said premises free from construction 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 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 seller is a creditor, or 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. If the contract becomes a first lien to finance the purchase of a dwelling use Stevens-Ness Form No. 1307 or similar.

STATE OF OREGON,

County of

I certify that the within instrument was received for record on the day of 1980, at o'clock M., and recorded in book/reel/volume No. on page or as document/fee/file/instrument/microfilm No. Record of Deeds of said county.

Witness my hand and seal of County affixed.

NAME

TITLE

By

Deputy

SELLER'S NAME AND ADDRESS

BUYER'S NAME AND ADDRESS

After recording return to:

Transamerica Title
600 Main Street
K. Falls, OR - 97601

NAME, ADDRESS, ZIP

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

Emil Kenneth Embrey
3706 Reeder Road
K. Falls, OR 97601

NAME, ADDRESS, ZIP

80021

15609

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 20 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 determine 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 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 \$ 65,000.00. However, the actual consideration consideration of other property as value given or promised which is hereby acknowledged as indicated which is

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.

J. Claude Bowden

Thelma M. Bowden

Emil Kenneth Embrey

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

STATE OF OREGON,

County of Klamath } ss.
August 18, 19 80

Personally appeared the above named
J. Claude Bowden, Thelma M.
Bowden and Emil Kenneth Embrey

and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

(OFFICIAL SEAL)

Notary Public for Oregon

My commission expires 2/14/81

STATE OF OREGON, County of _____) ss.
_____, 19____.

Personally appeared _____ and

_____, 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 be-
half 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:

(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 conveyer of the title to be conveyed. Such instruments, or a memorandum thereof, shall be recorded by the conveyer 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.

page 231, Deed Records, between H. F. Feltz, first party and H. F. Murdock and Christine Murdock, husband and wife, second party, affecting Southwesterly portion of subject property.

3. Conditions and restrictions, including the terms and provisions thereof, as disclosed by agreement recorded in Book 105 at page 77 of Deeds between H. F. Murdock and Christine Murdock, husband and wife, first party and Marguerite J. Hardenbrook, second party for the purposes of drain pipe.

4. Unrecorded Contract, including the terms and provisions thereof, and such other exceptions as may appear necessary upon the recording thereof, date unknown in favor of J. Claude Bowden and Thelma M. Bowden, vendees, dated March 1, 1973, which Buyer herein does not assume and agree to pay, and Sellers covenant to and with Buyer 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 in full of this contract.

It is agreed by and between the parties hereto that adjacent to the building Buyer is purchasing from Sellers is the building presently being leased by Sellers. In the event Buyer herein does not lease the building in the future it shall be the responsibility of Buyer to re-seal the door adjoining the buildings, and Sellers herein shall not be held responsible for such repair.

(for continuation of this Contract see attached Exhibit "A")

This Contract or any rights or interest hereunder, including Buyer's interest in the real property which is the subject of this Contract shall not be assigned, sold or conveyed by Buyer, or his heirs, legal representatives, successors or assigns, without the prior consent of Sellers (which consent shall not be unreasonably withheld) Sellers shall consent to any voluntary transaction when the withholding thereof would be unreasonable in the circumstances. Sellers may require such personal information concerning any future Buyer, assignee or grantee as a prudent lender would require of a prospective borrower.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Transamerica Titel Co.

this 18th day of August A. D. 19 80 at 4:01 o'clock P.M., and
 duly recorded in Vol. MS0, of Deeds on Page 15608

W. D. MILNE, County Clerk

By Bernetha Adetich

Fee \$10.50

EXHIBIT "A"