

TS

93-01

TRUST DEED

Vol. 1780 Page 23242



THIS TRUST DEED, made this 21st day of November, 1980, between E. A. Carey and Bette Carey as tenants by the entirety, as Grantor, Frontier Title & Escrow Company, as Trustee, and South Valley State Bank, as Beneficiary,

WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in Klamath County, Oregon, described as:

see attached copy EXHIBIT "A"

together with all and singular the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in anywise now or hereafter appertaining, and the rents, issues and profits thereof and all fixtures now or hereafter attached to or used in connection with said real estate.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of * * * SIXTY THOUSAND DOLLARS AND NO CENTS * * * * * Dollars, with interest thereon according to the terms of a promissory note of even date herewith, payable to beneficiary or order and made by grantor, the

final payment of principal and interest hereof, if not sooner paid, to be due and payable February 15, 1982.

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of said note becomes due and payable. In the event the within described property, or any part thereof, or any interest therein is sold, agreed to be sold, conveyed, assigned or alienated by the grantor without first having obtained the written consent or approval of the beneficiary, then, at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or herein, shall become immediately due and payable.

The above described real property is not currently used for agricultural, timber or grazing purposes.

To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain said property in good condition and repair, not to remove or demolish any building or improvement thereon, not to commit or permit any waste of said property.

2. To complete or restore promptly and in good and workmanlike manner any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefor.

3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting said property, if the beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require and to pay for filing same in the proper public office or offices, as well as the cost of all lien searches made by lending officers or searching agencies as may be deemed desirable by the beneficiary.

4. To provide and continuously maintain insurance on the buildings now or hereafter erected on the said premises against loss or damage by fire and such other hazards as the beneficiary may from time to time require, in an amount not less than \$ _____, written in companies acceptable to the beneficiary, with loss payable to the lender; all policies of insurance shall be delivered to the beneficiary as soon as insured; if the grantor shall fail for any reason to procure any such insurance and to deliver said policies to the beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on said buildings, the beneficiary may procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured hereby and in such order as beneficiary may determine, or at option of beneficiary, the entire amount so collected, or any part thereof, may be released to grantor. Such application or release shall not cure or waive any default or breach of duty hereunder or invalidate any action taken pursuant to such notice.

5. To keep said property free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against said property before any part of such taxes, assessments and other charges become due, and to promptly deliver receipts therefor to beneficiary. Should the grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by grantor, either by direct payment or by providing beneficiary with funds with which to make such payment, beneficiary may, at its option, make payment therefor, and the amount so paid, with interest at the rate set forth in the secured trust deed, shall be added to and become a part of the debt secured by this trust deed, with a power of sale, arising from breach of any of the covenants, conditions and restrictions herein, with interest as above, the property hereinafter described, as well as the grantor, shall be bound to the same extent that they are bound for the payment of the obligation herein described, and all such payments shall be immediately due and payable without notice, and the repayment thereof shall, at the option of the beneficiary, render all sums secured by this trust deed immediately due and payable and constitute a breach of this trust deed.

6. To pay all costs, fees and expenses of this trust including the cost of title search as well as the other costs and expenses of the trustee incurred in connection with or in enforcing this obligation and trustee's and attorney's fees actually incurred.

7. To appear in and defend any action or proceeding purporting to affect the security rights or powers of beneficiary or trustee and in any suit action or proceeding in which the beneficiary or trustee may appear, including any suit for foreclosure of this deed, to pay all costs and expenses, including expenses of title and the beneficiary's or trustee's attorney's fees, the amount of attorney's fees mentioned in this paragraph 7 in all cases shall be fixed by the trial court and in the event of an appeal from any judgment or decree of the trial court, grantor further agrees to pay such sums as the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney's fees on such appeal.

8. It is mutually agreed that:

9. In the event that any portion of all of said property shall be taken under the right of eminent domain or condemnation, beneficiary shall have the right, if it so elects, to require that all or any portion of the moneys payable in compensation for such taking, which are in excess of the amount required to pay all reasonable costs, expenses and attorney's fees incurred and applied by grantor in such proceedings, shall be paid to beneficiary, and both in the trial proceedings and appeals, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby, and grantor agrees at its own expense, to take such action and execute such instruments as shall be necessary in obtaining such compensation, promptly upon beneficiary's request.

10. At any time and from time to time upon written request of beneficiary, payment of its fees and presentation of this deed and the note for enforcement (in case of full reconveyance, for cancellation), without affecting the liability of any person for the payment of the indebtedness, trustee may

(a) consent to the making of any map or plat of said property; (b) join in any granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this deed or the here or charge thereon; (d) reconvey, without warranty, all or any part of the property. The grantee in any reconveyance may be deemed as the "person or persons legally entitled thereto" and the recital therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustee's fees for any of the services mentioned in this paragraph shall be not less than \$5.

10. Upon any default by grantor hereunder, beneficiary may at any time without notice, either in person, by agent or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in its own name and collect the rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expense of protection and collection, including reasonable attorney's fees upon any indebtedness secured hereby, and in such order as beneficiary may determine.

11. The entering upon and taking possession of said property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application or release thereof as aforesaid, shall not cure or waive any default or breach of duty hereunder or invalidate any act done pursuant to such notice.

12. Upon default by grantor in payment of any indebtedness secured hereby or in his performance of any agreement hereunder, the beneficiary may declare all sums secured hereby immediately due and payable. In such an event and if the above described real property is currently used for agricultural, timber or grazing purposes, the beneficiary may proceed to foreclose this trust deed in equity, as a mortgage in the manner provided by law for mortgage foreclosures. However if said real property is not so currently used, the beneficiary at its election may proceed to foreclose this trust deed in equity as a mortgage and sale. In the latter event the beneficiary or the trustee shall execute and cause to be recorded his written notice of default and his election to sell the said described real property, to satisfy the obligations secured hereby, whereupon the trustee shall fix the time and place of sale, give notice thereof as then required by law, and proceed to foreclose this trust deed in the manner provided in ORS 86.740 to 86.796.

13. Should the beneficiary elect to foreclose by advertisement and sale then after default at any time prior to five days before the date set by the trustee for the trustee's sale, the grantor or other person so privileged by ORS 86.760, may pay to the beneficiary or his successors in interest, respectively, the entire amount then due under the terms of the trust deed and the obligation secured thereby, including costs and expenses actually incurred in enforcing the terms of the obligation, and trustee's and attorney's fees not exceeding \$500 each, other than such portion of the principal as would not then be due had no default occurred, and thereby cure the default, in which event all foreclosure proceedings shall be dismissed by the trustee.

14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale. The trustee may sell said property either in one parcel or separate parcels, and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any warranty or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of the truthfulness thereof. Any person, excluding the trustee, but including the grantor and beneficiary, may purchase the property.

15. When trustee sells pursuant to the powers conveyed herein, trustee shall apply the proceeds of sale to payment of: (a) the expenses of sale, including the compensation of the trustee and a reasonable charge by trustee's attorney; (b) the obligation secured by the trust deed; (c) to all persons having recorded liens subsequent to the recording of the trust deed in the trust deed as the interest may appear in the public records; and (d) to the grantor and to the beneficiary in the order of their interests in the property.

16. For any reason permitted by law, trustee may, at any time, upon a reconveyance of said property, or at any time thereafter, reconvey to the grantor or to the beneficiary, or to the successors in interest, all or any part of the property, and all the powers and duties conferred in any way upon the trustee in this deed, shall be deemed to be assigned to the grantor or the beneficiary, as the case may be, and the trustee shall be deemed to be the agent of the grantor or the beneficiary, as the case may be, in the execution of the deed of reconveyance, which, when recorded in the public records, shall be conclusive proof of the truthfulness thereof.

17. Trustee accepts this trust when this deed is executed and acknowledged in made a public record as required by law. Trustee is not obligated to notify any party hereto of recording said deed under any other deed or trust or of any action or proceeding in which a grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee.

NOTE: The first part of this deed provides that the trustee hereunder must be either an attorney, who is an officer or member of the bar of the State of Oregon, or a person who is a member of the Oregon Trust Deed Series, or the United States or any agency thereof.

The grantor covenants and agrees to and with the beneficiary and those claiming under him, that he is lawfully seized in fee simple of said described real property and has a valid, unencumbered title thereto

and that he will warrant and forever defend the same against all persons whomsoever.

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are:

- (a)* primarily for grantor's personal, family, household or agricultural purposes (see Important Notice below),
(b) for an organization, or (even if grantor is a natural person) are for business or commercial purposes other than agricultural purposes.

This deed applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledgee, of the contract secured hereby, whether or not named as a beneficiary herein. In construing this deed and whenever the context so requires, the masculine gender includes the feminine and the neuter, and the singular number includes the plural.

IN WITNESS WHEREOF, said grantor has hereunto set his hand the day and year first above written.

* IMPORTANT NOTICE: Delete, by lining out, whichever warranty (a) or (b) is not applicable; if warranty (a) is applicable and the beneficiary is a creditor or such word is defined in the Truth-in-Lending Act and Regulation Z, the beneficiary MUST comply with the Act and Regulation by making required disclosures; for this purpose, if this instrument is to be a FIRST lien to finance the purchase of a dwelling, use Stevens-Ness Form No. 1305 or equivalent; if this instrument is NOT to be a first lien, use Stevens-Ness Form No. 1306, or equivalent. If compliance with the Act not required, disregard this notice.

(If the signer of the above is a corporation, use the form of acknowledgment opposite.)

(ORS 93.490)

STATE OF OREGON,

County of Klamath

November 21, 19 80

Personally appeared the above named

E. A. Carey and

Bette Carey

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

Before me:

(OFFICIAL
SEAL)

Notary Public for Oregon

My commission expires:

10-28-84

STATE OF OREGON, County of _____) ss.

Personally appeared _____ and

each for himself and not one for the other, did say that the former is the _____ who, being duly sworn, 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:

(OFFICIAL
SEAL)

REQUEST FOR FULL RECONVEYANCE

To be used only when obligations have been paid.

TO: _____, Trustee

The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by said trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of any sums owing to you under the terms of said trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by said trust deed (which are delivered to you herewith together with said trust deed) and to reconvey, without warranty, to the parties designated by the terms of said trust deed the estate now held by you under the same. Mail reconveyance and documents to _____

DATED: _____, 19 _____

Beneficiary

Do not lose or destroy this Trust Deed OR THE NOTE which it secures. Both must be delivered to the trustee for cancellation before reconveyance will be made.

TRUST DEED

(FORM No. 881)

STEVENS NESS LAW PUB CO. PORTLAND ORE.

Grantor

Beneficiary

AFTER RECORDING RETURN TO

SPACE RESERVED
FOR
RECORDER'S USE

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 Mortgages of said County. Witness my hand and seal of County affixed.

By _____ Title
Deputy

EXHIBIT "A"

PARCEL ONE

A portion of the Southwest Quarter Northeast Quarter of Section 2, Township 39 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at a point in the North right of way line of the Dalles-California Highway, which lies North 89°21' East a distance of 1158.8 feet, and North 0°46' West a distance of 30 feet from an iron plug in the pavement, which marks the center of Section 2, Township 39 South, Range 9 East of the Willamette Meridian, running thence North 89°21' East along the North right of way line of said Highway 150 feet; thence North 0°46' West 95 feet; thence South 89°21' West parallel with the North line of the Highway, 150 feet; thence South 0°46' East 95 feet, more or less to the place of beginning.

PARCEL TWO

A portion of the Southwest Quarter Northeast Quarter of Section 2, Township 39 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at a point which lies North 89°21' East a distance of 1308.8 feet and North 0°46' West a distance of 125 feet from an iron plug in the pavement which marks the center of Section 2, Township 39 South, Range 9 East of the Willamette Meridian, running thence North 0°46' West 94.4 feet, more or less, to the Southeast corner of Tract No. 86, of Pleasant Home Tracts No. 2; thence South 89°21' West along the South line of said Tract No. 86, 150 feet; thence South 0°46' East 94.4 feet; thence North 89°21' East 150 feet to the place of beginning.

EXCEPT FROM the above described parcels that portion lying within the right of way of South 6th Street.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Frontier Title Company

this 1st day of December A. D. 1980 at 3:09 o'clock P. M., and

duly recorded in Vol. M-80, of Mortgages on Page 23242

Fee \$ 10.50

W. D. MILNE, County Clerk

By Jaqueline J. Metter