

10820

ALL INCLUSIVE TRUST DEED

STEVENSON & LAW PUBLISHING CO., PORTLAND, OR. 97204

Page 4548

THIS TRUST DEED, made this 5th day of April, 1982, between
STEPHEN W. DUNC and JOAN E. DUNC, husband and wife
as Grantor, TRANSAMERICA TITLE INSURANCE COMPANY
THOMAS MC GARRY and LOUISE MC GARRY, husband and wife with the right of survivorship
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 "EXHIBIT A" FOR LEGAL DESCRIPTION)

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 connec-
tion with said real estate.
FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the
sum of FIFTEEN THOUSAND FIVE HUNDRED AND NO/100

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 as per terms of note, 19
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.

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, condi-
tions and restrictions affecting said property; if the beneficiary so requests, con-
join in executing such financing statements pursuant to the Uniform Commer-
cial 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 filing officers or searching agencies as may be deemed desirable by the
beneficiary;

4. To provide and continuously maintain insurance on the buildings
and such other hazards as the beneficiary may from time to time require, in
an amount not less than \$ (vacant land) written in
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 expira-
tion 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 benefi-
ciary 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 notice of default hereunder or invalidate any
act done pursuant to such notice.

5. To keep said premises 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 past due or delinquent and promptly deliver receipts therefor
to beneficiary; should the grantor fail to make payment of any taxes, assess-
ments, 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 thereof,
and the amount so paid, with interest at the rate set forth in the note secured
hereby, together with the obligations described in paragraphs 6 and 7 of this
trust deed, shall be added to and become a part of the debt secured by this
trust deed, without waiver of any rights arising from breach of any of the
covenants hereof and for such payments, with interest as aforesaid, of the
erty hereinbefore 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 with-
out notice, and the nonpayment 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 the foreclosure of this deed, to pay all costs and expenses, in-
cluding evidence 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 sum as the ap-
pellate court shall adjudge reasonable as the beneficiary's or trustee's attor-
ney's fees on such appeal.

It is mutually agreed that:

8. In the event that any portion or 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 monies payable
as compensation for such taking, which are in excess of the amount required
to pay all reasonable costs, expenses and attorney's fees necessarily paid or
incurred by grantor in such proceedings, shall be paid to beneficiary and
applied by it first upon any reasonable costs and expenses and attorney's fees,
both in the trial and appellate courts, necessarily paid or incurred by benefi-
ciary in such proceedings, and the balance applied upon the indebtedness
secured hereby; and grantor agrees, at its own expense, to take such actions
and execute such instruments as shall be necessary in obtaining such com-
pensation, promptly upon beneficiary's request.

9. At any time and from time to time upon written request of bene-
ficiary, payment of its fees and presentation of this deed and the note and
endorsement (in case of full reconveyances, 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
granting any easement or creating any restriction thereon; (c) join in any
subordination or other agreement affecting this deed or the lien or charge
thereof; (d) reconvey, without warranty, all or any part of the property. The
grantee in any reconveyance may be described as the person or persons
legally entitled thereto, and the recitals 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 ap-
pointed by a court, and without regard to the adequacy of any security for
erty or any part thereof, enter upon and take possession of said prop-
erty and profits, including those past due and unpaid, and apply the same,
less costs and expenses of operation and collection, including reasonable attor-
ney's fees upon any indebtedness secured hereby, and in such order as bene-
ficiary 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
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 the beneficiary at his election may proceed to foreclose this trust deed
in equity as a mortgage, or in the direct trustee to foreclose this trust deed
advertisement and sale. In the event the beneficiary or the trustee shall
execute and cause to be recorded his written notice of default and his election
thereof as then required by law and proceed to foreclose this trust deed in
the manner provided in ORS 86.740 to 86.795.

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
the ORS 86.760, may pay to the beneficiary or his successors in interest, respec-
tively, 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 ex-
ceeding the amounts provided by law) other than such portion of the prin-
cipal as would not then be due had no default occurred, and thereby cure
the trustee.

14. Otherwise, the sale shall be held on the date and at the time and
place designated in the notice of sale or the time to which said sale may
be postponed as provided by law. The trustee may sell said property either
in one parcel or in 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 covenant or warranty, express or im-
plied. 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 at the sale.

15. When trustee sells pursuant to the powers provided herein, trustee
shall apply the proceeds of sale to payment of (1) the expenses of sale, in-
cluding the compensation of the trustee and a reasonable charge by trustee's
attorney, (2) to the obligation secured by the trust deed, (3) to all persons
having recorded liens subsequent to the interest of the trustee in the trust
surplus, if any, to the grantor or to his successor in interest entitled to such
surplus.

16. For any reason permitted by law beneficiary may from time to
time appoint a successor or successors to any trustee named herein or to any
successor trustee appointed hereunder. Upon such appointment, and without
conveyance to the successor trustee, the latter shall be vested with all title,
powers and duties conferred upon any trustee herein named or appointed
hereunder. Each such appointment and substitution shall be made by written
instrument executed by beneficiary, containing reference to this trust deed
and its place of record, which, when recorded in the office of the County
Clerk or Recorder of the county or counties in which the property is situated,
shall be conclusive proof of proper appointment of the successor trustee.

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

NOTE: The Trust Deed Act provides that the trustee hereunder must be either an attorney, who is an active member of the Oregon State Bar, a bank, trust company
or savings and loan association authorized to do business under the laws of Oregon or the United States, a title insurance company authorized to insure title to real
property of this state, its subsidiaries, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under ORS 696.505 to 696.585.

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

(a) primarily for grantor's personal, family, household or agricultural purposes (See Important Notice below),

~~XXXXXX~~
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 as 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, or is not to finance the purchase of a dwelling use Stevens-Ness Form No. 1306, or equivalent. If compliance

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

1035 62 1001

STATE OF OREGON,)
County of Klamath) ss.
April 19 82

Personally appeared the above named.....
Stephen H. Dune and Joan E. Dune

and acknowledged the foregoing instru-
their voluntary act and deed

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OFFICIAL
SEAL

Rechtsanwalt Dr. Gerd...

My commission expires:

STATE OF OREGON, County of _____) ss.

PERSONALLY APPEARED, 19. _____

Personally appeared _____ and _____

duly sworn, 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 the 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

[illegible]

My commission expires:

(OFFICIAL
SEAL)

REQUEST FOR U.S. 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.

(FORM No. 501-1)

STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

Dunc.....

McGarry

Beneficiary

AFTER RECORDING RETURN TO

Transamerica Title Insurance Co.
600 Main Street
Klamath Falls, OR 97601
Attn: Julie Jarrett

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/reel volume No. _____ on page _____ or as document/tee/file/instrument/microfilm No. _____, Record of Mortgages of said County.

Witness my hand and seal of
County affixed.

NAME _____ TITLE _____

By _____ Deputy _____

DESCRIPTION

A parcel of land situated in the North one-half of Section 29, Township 37 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at a 5/8 inch iron pin marking the Southwest corner of the SE 1/4 of said Section 29; thence from said point of beginning North 02° 16' 26" West along the West line of the East half of the NW 1/4 of said Section 29, 528.01 feet to a 5/8 inch iron pin; thence South 88° 48' 32" East 1,577.21 feet to a 5/8 inch iron pin on the centerline of a private road easement described in Deed Volume M-73 at page 16734, Klamath County Deed Records; thence along said private road easement centerline the following bearings and distances: South 19° 25' 20" East 422.94 feet to a half inch iron pin; South 05° 36' 51" West 13-1.58 feet to a 5/8 inch iron pin on the South line of the North half of said Section 29; thence North 88° 48' 32" West along the South line of the said North half of Section 29, 1684.06 feet to the point of beginning.

This Trust Deed is an "All Inclusive Trust Deed" and is subordinate to the Contract now of record dated August 18, 1978, recorded August 28, 1978 in Book M-78 at page 19043, in official records of Klamath County, wherein Edmond Mahan and Eleanor A. Mahan are the Vendors and Thomas McGarry and Louise McGarry are the Vendees. Beneficiary herein agrees to pay, when due, all payments due upon the said Contract in favor of Edmond Mahan and Eleanor A. Mahan, and will save Grantors herein, Stephen W. Dunc and Joan E. Dunc, husband and wife harmless therefrom. Should the said Beneficiary herein default in making any payments due upon said prior Contract, Grantors herein may make said delinquent payments and any sums so paid by Grantors herein shall then be credited upon the sums next to become due upon the Note secured by this Trust Deed.

This Trust Deed is also subordinate to a Contract of record between Darlene M. Zarosinski as Vendor and Edmond Mahan and Eleanor A. Mahan as Vendee, dated September 18, 1975 and recorded September 18, 1975 in Book M-75 at page 11293 which Edmond and Eleanor A. Mahan have agreed to furnish free and clear title to the property contained therein upon payment in full of the above listed Contract between Mahans and McGarrys.

WITNESSETH, I, COUNTY OF KLAMATH; ss.
 Filed for record and report of
 this 12 day of April A.D. 1982 at 3:44 o'clock P.M.
 duly recorded in Vol. M 82, of Mtge on Page 4549
 fee \$12.00
 By Evelyn B. Behn County Clerk