

Return
American Constitutional
Rights Association
1014 Main St., Suite 2-D
Klamath Falls, Oregon 97601
(503) 884-0207

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF KLAMATH

AMERICAN CONSTITUTIONAL RIGHTS
ASSOCIATION, an unincorporated
association,

Plaintiff,

v.

OLAN FORD, d/b/a FORDCO PROPER-
TIES, Inc., an Oregon Corporation,
d/b/a OLAN FORD ENTERPRISES,

Defendant.

No. 83-048CV

NOTICE OF LIS PENDENS

Notice is hereby given that an action has been commenced and is
now pending in the above-named court on the complaint of the above-
named plaintiff against the above-named defendants.

The action seeks a decree of specific performance to require
the defendants as lessor to comply with the terms of a lease granted
to plaintiff by making the portion of the below-described property
leased to plaintiff tenantable by preventing future flooding and by
doing certain other things. Incidental damages are also sought.

The action concerns real property located in Klamath County,
Oregon, more particularly described as follows:

The easterly fifteen (15) feet of the northerly
one hundred thirteen (113) feet of section 9,
tract 49, and the westerly forty five (45) feet of
the northerly one hundred thirteen (113) feet of
section 10, tract 49, of the Nichols Subdivision,
City of Klamath Falls, County of Klamath, State of
Oregon.

and
The westerly fifty (50) feet less the southeasterly

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seven (7) feet for an alley of section 9, tract 49
of the Nichols Subdivision, City of Klamath Falls,
County of Klamath, State of Oregon.

Dated this 25th day of January, 1983.

Thomas D. Kershaw Jr.
THOMAS D. KERSHAW, JR.
Attorney for Plaintiff
1014 Main Street, Suite 2-B
Klamath Falls, Oregon 97601
(503) 884-0207

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LEASE

THIS LEASE, made in duplicate at Klamath Falls, Oregon, on this Fifth day of August 1982 by and between OLAN FORD ENTERPRISES, hereinafter known and referred to as the Lessor, and AMERICAN CONSTITUTIONAL RIGHTS ASSOCIATION, hereinafter known and referred to as the Lessee;

WITNESSETH:

That in consideration of the covenants, agreements and stipulations herein contained, the said Lessor does hereby let unto said Lessee those portions of the basement of the building known as 1014 Main Street, comprised of 1,690 square feet, approximately conforming to the blueprints attached hereto as Exhibits A and B, in the City of Klamath Falls, Oregon.

TO HAVE AND TO HOLD said premises hereby leased for a period of three (3) years from the first day of September 1982, to and including the first day of September , 1985, and said Lessee agrees to pay as rental thereof the full sums provided herein:

DEFINITION:

Tenantable - means the demised premises comply with ORS 91.770 (a) - (h).

1. Rental

a. The first month's rent shall be payable on the day the Lessee takes possession together with the last month's rent.

b. It is understood and agreed that prior to April 1, 1983, the Lessee may file with the Klamath County Tax Assessor an application for property tax exemption pursuant to ORS 307.112.

c. The rental amount for the month of September, 1982, shall be SIX HUNDRED FORTY-TWO DOLLARS (\$642.00) and the base rental amount thereafter shall be SIX HUNDRED FORTY-TWO DOLLARS (\$642.00) per month.

d. On November 1, 1983, the Lessee shall be allowed a credit for the difference between the base rental amounts

previously paid and the actual tax savings realized by the Lessor as occasioned by the granting of the application referred to in subparagraph b above. Such credit shall be computed by crediting one-twelfth (1/12) of said tax savings for each of the months of January, February, March, April, May, June, of 1983. Credits are subject to determinations of the Klamath County Tax Assessor's Office.

e. On November 1, 1983, the rental amount shall be redetermined as follows: the base rental amount, SIX HUNDRED FORTY-TWO DOLLARS (\$642.00) per month, shall be reduced by the amount of one-twelfth (1/12) of the tax savings the Lessor realizes from the granting of the application referred to in subparagraph b above and this amount shall be the 1983-1984 adjusted rental amount.

f. On November 1 of each year of this lease subsequent to November 1, 1983, the Lessee shall be allowed a credit (or debit) for the difference between the adjusted rental amounts previously paid and the actual tax savings realized by the Lessor as occasioned by the application referred to in subparagraph b above.

g. On November 1 of each year of this lease subsequent to November 1, 1983, the adjusted rental amount shall be reduced (or raised) by the amount of one-twelfth (1/12) of the tax savings the Lessor realized in that fiscal year from the granting of the application referred to in subparagraph b above and this amount shall be called the 1984-1985 (or as appropriate) adjusted rental amount.

h. Lessor shall annually furnish Lessee with a statement of Lessor's total savings resulting from the real property tax exemption, which shall include a complete statement of the calculations made to arrive at such savings. Such statement shall be furnished within thirty (30) days after the necessary figures are available from the offices of the County Assessor and County Tax Collector for the computation of the savings for the year.

i. Lessor shall annually furnish Lessee with invoices or billings representing Lessor's expenses for utilities for the

basement of the premises and for cleaning, maintenance and insurance for the premises and may assess a surcharge monthly to Lessee's current rental amount equal to one-twelfth (1/12) of any increase in Lessor's expenses, as reflected by such invoices or billings, multiplied by Lessee's percentage of rented floor space in the premises. Provided however, that the annual surcharge shall in no case exceed five (5) percent of the base rental amount.

2. Term

a. This lease shall commence as of September 1, 1982, and the term of this lease shall be for a full three (3) year period from said date, terminating on September 1, 1985.

b. At the expiration of the initial term, if this lease shall be in full force and effect, Lessee shall have the option to renew this lease for three additional terms of one (1) year each upon the same terms and conditions, excepting the provisions as to the amount of rent which shall be subject to negotiation and readjustment between the parties. Should Lessee wish to exercise this option to renew this lease, Lessee shall notify Lessor within sixty (60) days of the expiration of this lease or subsequent renewal of the intention to renew.

c. The premises shall be available for occupancy by Lessee no later than September 1, 1982.

3. Utilities

Lessor shall provide systems for heating and air conditioning which are adequate to maintain a comfortable working atmosphere in all areas of the leased premises. Lessor shall provide at his own expense all utilities (e.g., electricity, gas and water) and garbage removal.

4. Unlawful Use

Lessee agrees that it will not during the term of this lease make any unlawful use of the demised premises and that it will not commit or suffer to be committed any unreasonable waste or damage to or upon the same.

5. Parking

Lessor agrees to provide and maintain a parking area for the premises consisting of nine spaces. Of these nine spaces, it is understood that three spaces shall be reserved and posted for a restaurant located in the building. The remaining six spaces shall be reserved and posted for the remaining tenants of the building during the hours of 8:00 a.m. to 5:00 p.m. and a reasonable number of parking permits, suitable for display in an automobile window, shall be issued by Lessor. Lessee shall be provided five permits; but such permit parking will be on a first come basis.

6. Easements

a. The employees and clients of Lessee shall be permitted the shared use of the bathrooms, front entrance, common entrance area, and exterior of the premises with other tenants of the building.

b. Lessee shall permit the use of the hallways and exits of the building to the employees and clients of other tenants of the building between the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday, holidays excluded.

7. Maintenance

The Lessor shall at his own cost and expense maintain in good order and repair the foundation, exterior walls, roof, plumbing, wiring and heating and cooling plant of the demised premises. Lessor shall also keep the common entranceways and the office restrooms in a clean and tenantable condition. The Lessee shall at its own cost and expense at all times keep the interior of the demised premises occupied by it, in a clean and orderly condition.

If the Lessee experiences any problems that make the premises untenable, the Lessee shall notify the Lessor within twenty-four (24) hours and Lessor shall have five (5) working days in which to correct the problem.

Lessee will not allow the leased premises at anytime to fall into such a state of disorder or repair as to increase the fire

hazard thereon.

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8. Right to Inspect

It shall be lawful for the Lessor and those having his estate in the premises, at reasonable times, to enter into and upon the same, to examine the condition thereof, upon twenty-four (24) hours prior notice to the Lessee.

9. Damage by Fire or Other Casualty

a. If during the term of this lease the building in which the demised premises is situated shall be damaged by fire, flood, windstorm or any other casualty in excess of forty (40) percent to the sound value of said building, then for the period of twenty (20) days from the date of said damage or injury occurring the Lessor shall have the right either to elect to rebuild the premises or to terminate and cancel this lease. If the Lessor elects to repair the damage, he shall within twenty (20) days from the date of said injury or damage occurring notify the Lessee in writing that he has elected to rebuild, and upon said notice being given this lease shall continue, excepting, of course, that the pro-rata share of rental shall be abated until such time as the demised premises are again placed in a tenantable condition. If within said twenty (20) day period the Lessor shall not give notice to the Lessee that he has elected to restore and repair the damage, then this lease shall be terminated as of the date of said damage or injury to the building.

b. If the damage and destruction to said building from such fire or other casualty as aforesaid shall be less than forty (40) percent of the sound value of the building, then the Lessor shall proceed with reasonable diligence to restore and repair the same and to place the demised premises in a tenantable condition and the lease shall continue, excepting only, of course, that the proportionate share of the rent shall be abated during the time the demised premises is untenable.

10. Access to the Handicapped

Lessee warrants that he has inspected the demised premises as of August 5, 1982, and finds no objectionable accessibility or utilization problems for handicapped persons. Lessor warrants that he will not alter the premises to reduce accessibility or utilization by the handicapped, however, if Lessor is required by law to alter the premises or if the premises are destroyed or damaged this is not deemed to violate this section.

11. Signs

a. Lessee may attach such signs for the purposes of advertising or displaying the name of Lessee's business to the exterior wall of the demised premises, provided always, however that the sign shall be limited to two feet by two feet that any such sign shall be one which can be removed without damage to the wall of the demised premises and further provide that the Lessee shall and will not paint any sign on any wall.

b. Lessor agrees to furnish within 90 days of the execution of this lease a building directory. Said directory will have a professional appearance, be located at or near the main entrance of the building, and shall reflect the fact that lessee occupies space in the building.

12. Assignment of Lease

Lessee may assign or sublet this lease or any portion thereof with the prior approval of the Lessor. Lessor shall not withhold such approval unreasonably.

13. Right of First Refusal

Lessor shall notify Lessee if additional spaces become available for rent within the building and shall afford Lessee five (5) days following such notification in which to exercise an option to enter into a rental agreement for such space, in addition to or in equal substitution. Lessor reserves the right to renegotiate the monthly rental prior to entering into agreement with any person or entity for the use of such space, however, the terms

of any such new or substituted rental agreement between these parties shall be in accordance with the terms of this agreement, so long as applicable, with any remaining terms to be subject to reasonable negotiation.

14. Termination of Lease

a. In the event that the Lessee suffers a reduction in funding from its membership, its contributors and sponsors, its clients, or any other source, which reduction is determined by the Lessee to require a reduction in legal services to its clients and membership in Klamath County, such that a staff attorney office is not maintained in Klamath County, the Lessee may terminate this lease upon two (2) months written notice of actual or impending loss of funding.

b. If any payment of rent herein required shall remain due and in arrears for a period of fourteen (14) days from the day specified above for its payment, the Lessor may, at his option, terminate this lease by giving notice in writing to the Lessee of his election to so terminate the lease.

c. At the expiration of this lease, or any renewal of it, the Lessee will quit and deliver up the premises, and all future erections or additions to or upon the same, to the Lessor, or those having his estate therein, quietly, in good order and condition (reasonable use and wearing excepted) as the same now are/or may be put in by the Lessor or those having his estate in the premises.

15. Waiver

Any waiver of any breach of covenants herein contained shall not be deemed or considered as a continuing waiver, and shall not operate to bar or prevent either party from declaring a forfeiture for any succeeding breach, either of the same condition or covenant or otherwise.

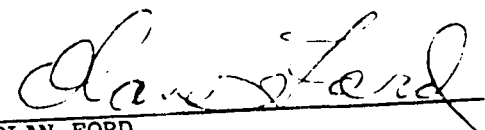
16. Attorney Fees and Court Costs

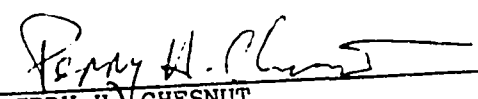
In the event suit or action is instituted to enforce compliance with any of the terms, covenants or conditions of this lease,

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or to collect the rental which may become due hereunder, or any portion thereof, the prevailing party shall recover from the other party such sums as the trial court may adjudge reasonable as attorney fees to be allowed in such suit or action and in the event any appeal is taken from any judgment or decree in such suit or action, such further sum as the appellate court shall adjudge reasonable as attorney fees on such appeal, in addition to costs and disbursement allowed by law. Lessee also agrees to pay and discharge all Lessor's costs and expenses, including Lessor's reasonable attorney fees, that shall arise from successfully enforcing any provisions or covenants of this lease against Lessee even though no suit or action is instituted.

IN WITNESS WHEREOF, THE RESPECTIVE PARTIES have executed this instrument the day and year first hereinabove written, in duplicate.


OLAN FORD


PERRY H. CHESNUT
Executive Director, ACRA

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record . 4:37
this 25 day of Jan A.D. 19 83 at o'clock P.M., and
duly recorded in Vol. M83, of Deeds on Page 1358
Fee \$40.00 By EVELYN BIEHN, County Clerk

RERECORDED: NOT SIGNED BY DEPUTY
STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record . 4:05
this 27 day of Jan A.D. 19 83 at o'clock P.M. &
duly recorded in Vol. M83, of Deeds on Page 1491
No Fee By EVELYN BIEHN, County Clerk