

22310

TRUST DEED

Vol. m 90 Page 22284

THIS TRUST DEED, made this 2nd day of November, 19 90, between
VINCENT K. NIHIPALI, SR. and CHARLES K. NIHIPALI, SR., as tenants in common

as Grantor, MOUNTAIN TITLE COMPANY OF KLAMATH COUNTY

as Trustee, and
RICHARD T. DUDY and JEANNE S. DUDY, husband and wife
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 LEGAL DESCRIPTION OF WHICH IS MADE A PART HEREOF BY THIS REFERENCE.

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

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-TWO 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 per terms of Note, 19 90.

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.

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

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 filing 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 \$ full insurable value, written in
companies acceptable to the beneficiary, with loss payable to the latter; 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 ten 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 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, the property
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 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 ben-
eficiary 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 ben-
eficiary, payment of its fees and presentation of this deed and the note for
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
the indebtedness hereby secured, enter upon and take possession of said prop-
erty or any part thereof, in its own name sue or otherwise collect the rents,
issues 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 ben-
eficiary 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 notice of default 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, time being of the
essence with respect to such payment and/or performance, 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 direct the trustee to foreclose this trust deed by
advertisement and sale, or may direct the trustee to pursue any other right or
remedy, either at law or in equity, which the beneficiary may have. In the event
the beneficiary elects to foreclose by advertisement and sale, 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 obligation
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 86.735 to 86.795.

13. After the trustee has commenced foreclosure by advertisement and
sale, and at any time prior to 5 days before the date the trustee conducts the
sale, the grantor or any other person so privileged by ORS 86.753, may cure
the default or defaults. If the default consists of a failure to pay, when due,
sums secured by the trust deed, the default may be cured by paying the
entire amount due at the time of the cure other than such portion as would
not then be due had no default occurred. Any other default that is capable of
being cured may be cured by tendering the performance required under the
obligation or trust deed. In any case, in addition to curing the default or
defaults, the person effecting the cure shall pay to the beneficiary all costs
and expenses actually incurred in enforcing the obligation of the trust deed,
together with trustee's and attorney's fees not exceeding the amounts provided
by law.

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
deed as their interests may appear in the order of their priority and (4) the
surplus, if any, to the grantor or to his successor in interest entitled to such
surplus.

16. Beneficiary may from time to time appoint a successor or suc-
cessors to any trustee named herein or to any successor trustee appointed here-
under. 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,
which, when recorded in the mortgage records 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 696.555.

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 except SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

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:
 (b) for an organization, or (even if grantor is a natural person) are for business or commercial 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 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 use Stevens-Ness Form No. 1319, or equivalent. If compliance with the Act is not required, disregard this notice.

VINCENT K. NIHIPALI, SR.

Charles K. Nihipali, SR.
 CHARLES K. NIHIPALI, SR.

STATE OF OREGON, County of Klamath) ss.

This instrument was acknowledged before me on November 2, 1990,
 by VINCENT K. NIHIPALI, SR. and CHARLES K. NIHIPALI, SR.

This instrument was acknowledged before me on , 19 ,

by

as

of

Kristin Y. Redd
 Notary Public for Oregon

My commission expires 11/16/91

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.

VINCENT K. NIHIPALI, SR. et al
 94-260 Pupuoale Street
 Waipahu, HI 96797

Grantor

RICHARD T. & JEANNE S. DUDY
 3511 Evergreen
 Klamath Falls, OR 97603

Beneficiary

AFTER RECORDING RETURN TO
 MOUNTAIN TITLE COMPANY OF
 KLAMATH COUNTY

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 fee/file/instrument/microfilm/reception No. Record of Mortgages of said County.

Witness my hand and seal of County attixed.

NAME

TITLE

By Deputy

A portion of Lots 10 and 11, Block 6, CANAL ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, more particularly described as follows:

Beginning at a point on the Southeasterly line of Lot 10, Block 6, CANAL ADDITION to the City of Klamath Falls, which lies Northeasterly along the Southeasterly line of said Block 6 a distance of 71.2 feet from the Southwest corner of said Block 6 and running thence in a Northeasterly direction along the Southeasterly line of Lots 10 and 11 of said Block 6 a distance of 30 feet to an iron pin in the Southeasterly line of the above mentioned Lot 11; thence in a Northwesterly direction a distance of 95.75 feet to an iron pin on the Northwesterly line of Lot 11, which is 129.6 feet Easterly along the Northerly line of Lots 8 to 11 from the most Westerly corner of Lot 8; thence Southwesterly along the Northwesterly line of Lots 10 and 11, Block 6 a distance of 30 feet to a point on the Northwesterly line of Lot 10, Block 6; thence in a Southeasterly direction a distance of 94.67 feet, more or less, to the point of beginning.

Tax Account No: 3809 032AA 04000

PARCEL 2:

Lots 8 and 9, and a portion of Lot 10 in Block 6 of CANAL ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, more particularly described as follows:

Beginning at the most Southerly corner of said Lot 8, thence Easterly along the Southerly line of Lots 8, 9 and 10, a distance of 71.2 feet to the Southwest corner of that certain parcel of land conveyed by Martha A. Barron to Carl Michelson, et ux, by deed recorded on page 417 of Volume 178 of Deed Records of Klamath County, Oregon, thence in a Northwesterly direction, along the Westerly line of said parcel, a distance of 94.67 feet, more or less, to a point on the Northwesterly line of said Lot 10, which is distant 99.8 feet Easterly along the Northerly line of Lots 8, 9 and 10 from the most Westerly corner of Lot 8; thence Westerly along the said Northerly line, 99.8 feet to the most Westerly corner of Lot 8, thence Southerly along the Westerly line of said Lot 8, 95.02 feet to the point of beginning.

Tax Account No: 3809 032AA 4100

SUBJECT TO:

1. Real Estate Contract, subject to the terms and provisions thereof, dated March 22, 1977, and recorded March 24, 1977, in Volume M77, page 4954, Microfilm Records of Klamath County, Oregon, between Edwin L. Kurth and Merline A. Kurth, husband and wife, as Vendors and Richard T. Dudy and Jeanne S. Dudy, husband and wife, as Vendees.
2. Trust Deed, subject to the terms and provisions thereof, dated March 24, 1982, recorded March 25, 1982, in Volume M82, page 3701, Microfilm Records of Klamath County, Oregon, between Richard T. Dudy and Jeanne S. Dudy, husband and wife, as Grantors, Transamerica Title Insurance Co. who subsequently assigned their interests to Klamath County Title Company, and Raymond G. Budden and Rose Ellen Budden, husband and wife, as Beneficiary.
3. Trust Deed, subject to the terms and provisions thereof, dated April 9, 1987, and recorded April 17, 1987, in Volume M87, page 6558, Microfilm Records of Klamath County, Oregon, and rerecorded May 6, 1987, in Volume M87, page 7759, Microfilm Records of Klamath County, Oregon, between Richard T. Dudy and Jeanne S. Dudy, husband and wife, as Grantors, Klamath County title Company, as Trustee, and Jackson County Federal Savings and Loan Association, as Beneficiary.

Richard T. Dudy and Jeanne S. Dudy, husband and wife, Beneficiary herein agrees to pay when due, all payments due upon the above described Contrats and Promissory Notes secured by Trust Deeds and will hold the Grantors herein, Vincent K. Nihipali, Sr. and Charles K. Nihipali, Sr., harmless therefrom. Should the said Beneficiay herein, Richard T. Dudy and Jeanne S. Dudy, husband and wife, default in making any payments due upon above described prior Contract and Notes secured by Trust Deeds, Grantor herein may make said delinquent payments and any sums so paid by Grantor herein shall then be credited upon the sums next to become due upon the Note secured by this Trust Deed.

Beneficiary herein shall pay when due each year the real property taxes and fire insurance (on 915 Oak only), beginning with the 1990-1991 fiscal year, and upon presentation of the paid receipts to the Collection Escrow Agent, Mountain Title Company, the amounts Beneficiary has paid shall be added back to the balance of the Note secured by this Trust Deed.

x 02.
CKN

22287

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Co. the 6th day
of Nov. A.D., 19 90 at 2:08 o'clock PM., and duly recorded in Vol. m90,
of Mortgages on Page 22284.

FEE \$23.00

Evelyn Biehn - County Clerk

By Pauline Mullins