

2009-006391

Klamath County, Oregon



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05/06/2009 03:16:28 PM

Fee: \$26.00

FIRST PARTY NAME AND ADDRESS:
ELMER EVINGER
PATRICIA EVINGER
P. O. BOX 192
CRESCENT, OR 97733

SECOND PARTY NAME AND ADDRESS:
DONNA M. MCGAVIN
22010 HWY 47
YAMHILL, OR 97148

AFTER RECORDING RETURN TO:
NEAL G. BUCHANAN, ATTORNEY
435 OAK AVE.
KLAMATH FALLS, OR 97601

SEND TAX STATEMENTS TO:
SECOND PARTY

ESTOPPEL DEED

THIS INDENTURE between ELMER EVINGER and PATRICIA EVINGER, Husband and Wife hereinafter called the first party, and DONNA M. MCGAVIN, Trustee of the McGavin Revocable Living Trust, hereinafter called the second party;

WITNESSETH:

Whereas, the equitable title (the vendee's interest) to the real property hereinafter described is vested in the first party subject to the lien of the vendor's interest in second party with reference to a certain Memorandum of Land Sale Contract recorded in the records of Klamath County, Oregon in Book M02 at page 37228, reference to said records hereby being made, and the indebtedness secured by said Contract of Sale are now owned by the second party, on which indebtedness there is now owing and unpaid the sum of \$ 215,580.29, together with interest at the rate of 10% per annum from February 9, 2009 until paid, the same being now in default and said Contract of Sale being now subject to immediate foreclosure, and whereas the first party, being unable to pay the same, has requested the second party to accept an absolute deed of conveyance of said property in satisfaction of the indebtedness secured by said Contract of Sale and the second party does now accede to said request.

NOW, THEREFORE, for the consideration hereinafter stated (which included the cancellation of the indebtedness secured by said Contract of Sale and the surrender thereof marked "Paid in Full" to the first party), the first party does hereby grant, bargain, sell, warrant and convey unto the second party, Donna M. McGavin, Trustee of the McGavin Revocable Living Trust, its heirs, successors and assigns, all of the following described real property situate in Klamath County, State of Oregon, to-wit:

Lots 5, ~~8~~⁸, 7, 9, 10, 16, 17, 18, 19, 20, 21, 22, 23 and 24 in Block 38 of CRESENT according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon EXCEPTING THEREFROM those portions conveyed to the State of Oregon by and through its State Highway Commission by deed recorded March 5, 1943 in Deed Volume 153, Page 367, recorded April 30, 1943 in Deed Volume 155, page 31; recorded June 30, 1943 in Deed Volume 156, Page 339; recorded March 30, 1944 in Deed Volume 163, page 461 and recorded March 25, 1952 in Deed Volume 253, page 583 all records of Klamath County, Oregon.

together with all of the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining:

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ -0-. However, the actual consideration consists of or includes other property or value given or promised which is a part of the consideration, being in lieu of foreclosure.

TO HAVE AND TO HOLD the same unto said second party, party's heirs, successors and assigns forever.

And the first party, for first party and first party's heirs and legal representatives, does covenant to and with the second party, its heirs, successors and assigns, that the first party is the possessor of an equitable (vendee's) interest in said property, free and clear of all encumbrances whatsoever; that the first party will warrant and forever defend the above granted premises, and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, other than the liens herein expressly excepted; that this deed is intended as a conveyance, absolute in legal effect as well as in form, of the title to said premises to the second party and all redemption rights which the first party may have therein, and not as a mortgage, trust deed or security of any kind; that possession of said premises hereby is surrendered and delivered to said second party; that in executing this deed the first party is not acting under any misapprehension as to the effect thereof or under any duress, undue influence, or misrepresentation by the second party, or second party's representatives, agents or attorneys; that this deed is not given as a preference over the creditors of the first party and that at this time there is no person, co-partnership or corporation, other than the second party, interested in said premises directly or indirectly, in any manner whatsoever.

In construing this instrument, it is understood and agreed that the first party as well as the second party may be more than one person; that if the context so requires, the singular shall be taken to mean and include the plural; that the singular pronoun means and includes 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.

"BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007."

IN WITNESS WHEREOF, the first party above named has executed this instrument; if first party is a corporation, it has caused its corporate name to be signed hereto and its corporate seal affixed by its officers duly authorized thereunto by order of its Board of Directors.

Dated 5/1/09, 2009.

Elmer Evinger
Elmer Evinger

Patricia Evinger
Patricia Evinger

STATE OF OREGON, County of Klamath) ss.

This instrument was acknowledged before me on May 1st, 2009, by Elmer Evinger and Patricia Evinger.



Alice L. Bishop
NOTARY PUBLIC FOR OREGON
My commission expires: