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ANDERSON LAW OFFICE

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KATHY HILL
SKAGIT COUNTY AUDITOR

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9511130019

95 NOV 13 A9:14

DECLARATION OF EASEMENT AND ROAD MAINTENANCE AGREEMENT
REQUEST OF

RECITALS:

A. JOACHIM RICHTER and PATRICIA RICHTER, husband and wife (hereinafter collectively referred to as Richter), are the owners of Lots 1, 2, 3, 4, and 6 of Plat 127-78 as recorded in Record of Plats, Volume 3, Page 82, of the records of Skagit County, Washington on March 20, 1979.

B. JESSICA HELLMANN, a married woman dealing in her separate property; KARIN MERZBACHER, a single woman; and THOMAS MERZBACHER, a married man dealing in his separate property (all collectively hereinafter referred to as Merzbacher), are the owners of Lots 5, 7, 8, 9 and 10 of Plat 127-78 as recorded in Record of Plats, Volume 3, Page 82, of the records of Skagit County, Washington on March 20, 1979.

C. Richter and Merzbacher previously entered into a "Partition Agreement" which was recorded on October 12, 1994 and recorded under Skagit County Auditor's File No. 9410120063 which provided among other things, for certain easements over both of their above described properties (hereinafter collectively referred to as the "property").

D. Richter and Merzbacher desire to create, clarify, and/or confirm the easement rights affecting the property; and

NOW THEREFORE in consideration of the mutual benefits inuring to each of the parties hereto they covenant, and agree as follows:

1. Richter and Merzbacher, convey and quit claim unto one another non-exclusive easement rights for utilities and pedestrian purposes over a 10 foot trail which shall be called the "Beach Trail" which commences on Lot 6 approximately 18 feet to the south of the mean high tideline of Secret Harbor and meanders along the shoreline of Secret Harbor in a westerly direction through lots 5, 4, 3, 2, and 1 and exits the property at the northwest corner of Lot 1 of the property.

2. In addition to the right to use Beach Trail for pedestrian purposes, the owners of lots 1, 2, 3, 4, 5, and 6 shall have the right, in situations of emergency or necessity, to use vehicles on Beach Trail.

3. Richter and Merzbacher convey and quit claim unto one another a 12 foot non-exclusive easement for ingress, egress, utilities, and purposes incidental thereto over, under, and

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SKAGIT COUNTY WASHINGTON
Real Estate Excise Tax
PAID

NOV 9 1995

BK1493PG0167

Amount Paid
Skagit County Treasurer
By: Deputy

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1
2 across the existing roadway which is approximately 170 feet above
3 the mean high tideline of Secret Harbor which shall hereafter be
4 called "Highland Road". Said easement originates on Lot 7 and
5 proceeds in a westerly direction into Lot 6 and connects with an
6 existing road which shall hereinafter be referred to as "Patricia
7 Springs Circle" which encircles the existing boathouse and pro-
8 vides access to the same, as well as the existing ramp and dock,
9 all of which are located on Lot 6 of the property. Highland Road
10 then continues in a westerly direction across Lots 5, 4, 3, 2,
11 and 1 and exits the property at the southwest corner of Lot 1.

12 4. Richter and Merzbacher grant unto Secret Harbor School, a
13 Washington non-profit corporation, a non-exclusive license to use
14 Highland Road and Patricia Spring Circle for ingress and egress
15 purposes during periods of low tide. If, and when, Secret Harbor
16 School should sell, lease, or assign their interest in the real
17 property said license shall terminate. In addition, Richter and
18 Merzbacher acknowledge the rights of Secret Harbor School arising
19 from that certain Warranty Deed dated October 14, 1981 and
20 recorded under Skagit County Auditor's File No. 8201050029, a
21 License Agreement dated December 15, 1981 and recorded under
22 Skagit Auditor's File No. 8201050030, and from a Judgment on
23 Remittitur in Skagit County Case No. 22110.

24 5. Richter conveys and quit claims unto Merzbacher and any
25 future owner of any of the lots in the property an easement for
26 the non-exclusive use of the enclosed portion of the existing
27 boathouse on Lot 6. The use of the boathouse shall be in common
28 with all of the owners of the property.

29 6. Richter conveys and quit claims unto Merzbacher and any
30 future owner of any of the lots in the property a non-exclusive
31 easement for the purposes of loading and off-loading on the ramp
32 and dock located on Lot 6. Said usage shall be in common with
33 the right of Secret Harbor to use the dock for the limited pur-
34 poses of loading and unloading of passengers and supplies neces-
35 sitated by low tides as provided in the deed referred to in para-
36 graph 5 above and with all other owners of the property and shall
37 be subject to the reservation by Richter for the owners of Lots
38 1, 2, and 3 of the right to moor boats on a continuing basis on
39 said dock.

40 7. The owners of each lot in the property shall pay 10% (for
41 each lot owned) of the costs required for the maintenance,
42 repair, and/or replacement of the enclosed portion of the boath-
43 ouse, trail, roads, ramp and dock referred to above and the cost
44 of a comprehensive personal liability policy which the owners of
45 the property shall obtain to provide insurance covering the own-
46 ers of the property with regard to the usage of the easements and
47 license created by this document and/or those arising from the
48 Partition Agreement referred to in paragraph C above and those
49 referred to in paragraph 4 above. With the exception of the
50 foregoing insurance requirement, it shall require the owner, or

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owners, of at least seven lots to initiate any of the foregoing and upon notice of an assessment for those purposes, each owner shall have 30 days to contribute their pro-rata portion of the expense connected with the same.

8. The easements and rights created hereunder shall be for the use and benefit of Richter's and Merzbacher's heirs, successors and assigns and the conveyances referred to herein shall include any after acquired interests or title.

9. In the event it is necessary for any party to retain the services of an attorney to enforce their rights and/or any of the provisions of this agreement, the prevailing party(s) shall be entitled to their reasonable attorneys fees and costs, including those on appeal and the venue of any legal action shall be in Skagit County, Washington.

DATE: July 13-95Joachim Richter
JOACHIM RICHTERDATE: July 14-95Patricia Richter
PATRICIA RICHTERDATE: 20.6.95Jessica Hellmann
JESSICA HELLMANNDATE: 28.6.95Karin Merzbacher
KARIN MERZBACHERDATE: 30.6.95Thomas Merzbacher
THOMAS MERZBACHER

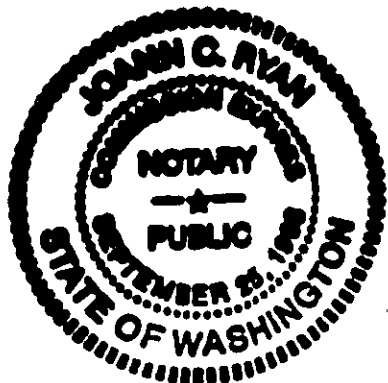
STATE OF WASHINGTON)

) SS

COUNTY OF SKAGIT)

On this day personally appeared before me JOACHIM RICHTER and PATRICIA RICHTER, to me know to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 14th day of JULY, 1995.

Jo Ann C. Ryan
Notary Public in and for the State of Washington, residing at ANACORTESMy appointment expires: 9-25-98JOANN C. RYAN
(Printed Name)

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Official Certification

Seen for authentication of the reverse side signature, affixed in our presence by

Jessica Eve Hellmann-Merzbacher, born 1953, Swiss citizen of Küsnacht ZH, residing at Bruggliacker 60, CH-8050 Zurich, who has identified herself by identity card.

8050 Zurich, 20th June 1995
E No 3839
Fee: Fr. 20.--



NOTARIAT OERLIKON-ZUERICH

K. Schweizer, Notary

Official Legalization

Seen for legalization of the foregoing signature signed in our presence by (on reverse side)

Mrs. Karin Andrea MERZBACHER, born 1956, Swiss citizen of Kilchberg/ZH, residing at CH-8008 Zurich, Florastr.21 who is identified by passport.

Zurich, this 28th day of June 1995
B.No.30299/Le
Fr.20.--



Notariat Zürich (Altstadt)

Official Legalization

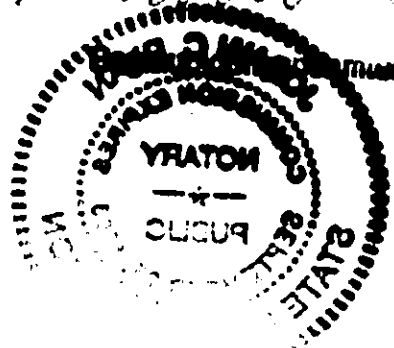
Seen for legalization of the foregoing signature signed in our presence by (on reverse side)

Mr. Thomas Julian MERZBACHER, born 1960, Swiss citizen of Kilchberg/ZH, residing at CH-8049 Zurich, Im oberen Boden 140 who is identified by identity-card

Zurich, this 30th day of June 1995
b.No.30378/Le
Fr.20.--



Notariat Zürich (Altstadt)



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