

Return to:
Mr. William J. Monnette
Monnette, Rechtin & Cawley, P.S.
P.O. Box 2599
Wenatchee, WA 98807-2599



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Skagit County Auditor
7/26/2001 Page 1 of 7 11:46:11AM

LAND TITLE COMPANY OF SKAGIT COUNTY

DEED OF TRUST

PA-97701

75712

Reference numbers of related documents:

Grantors (Seller): Randall M. Phillips, Jr., a single man, as his separate property

Beneficiary: Michael Witmer, a married man, as his separate estate

Legal Description (abbreviated): Lot 2 of SP 96-020 in 18-34-2 E.W.M.

Additional legal description is on Page 1 of documents

Assessor's Tax Parcel ID#: P111958-34021800020400

THIS AGREEMENT is made by Randall M. Phillips, Jr., a single person, hereafter called the Grantor, and Land Title Insurance Company of Skagit County, a corporation, whose address is P.O. Box 445, 111 East George Hopper Road, Burlington, WA 98233, hereafter called the Trustee, and Michael Witmer, a married man, as his separate estate, hereafter called the Beneficiary.

IT IS MUTUALLY AGREED that the Grantor hereby bargains, sells and conveys to the Trustee in trust, with power of sale, for the benefit of the Beneficiary, the real property described in paragraph (1), together with any after acquired title, hereafter called the Property, upon the terms and conditions set forth below.

1. **DESCRIPTION OF PROPERTY:** The Property is located in Skagit County, Washington, includes any and all improvements, fixtures, appurtenant water rights, and the rents, issues and profits of the property, and is legally described as:

Lot 2 of Skagit County Short Plat No. 96-020 as recorded September 18, 1997, under Auditor's File No. 9709180101, in Volume 13 of Short Plats, page 39, records of Skagit County, Washington; and being a replat of Tract 1 Skagit County Short Plat No. 50-89 as recorded November 29, 1989, under Auditor's File No. 8911290080 in Volume 8 of Short Plats, page 190, records of Skagit County, Washington, in Section 18, Township 34 North, Range 2 East, W. M.

2. **TITLE CONDITIONS:** The title to the property is conveyed:

SUBJECT TO easements, restrictions and reservations of record,

SUBJECT TO public and private condemnation rights.

3. PURPOSE OF DEED: This Deed of Trust is for the purpose of securing the performance of each agreement of the Grantor contained herein, and the payment of the sum of Fifty Thousand Dollars (\$50,000.00) with interest, pursuant to the terms of a Promissory Note of even date, payable to the order of the Beneficiary, and made by the Grantor, and all renewals, modifications and extensions of such Note, and also any further sums as may be advanced or loaned by the Beneficiary to the Grantor, or any of their successors or assigns, together with interest at such rate as is agreed upon.

4. RECONVEYANCE OF TITLE: The Trustee shall reconvey the property to the Grantor, on written request of the Grantor and the Beneficiary, or upon satisfaction of the obligation secured and written request for reconveyance by the Grantor.

5. USE OF PROPERTY:

(a) Grantor will prevent the use of the property for any illegal purpose and will prevent, by act or omission, any waste to the premises. Normal land development work shall not constitute waste.

(b) Grantor will at all times keep and maintain the property and all improvements hereafter located on the property in as good a state of repair as they were upon the date of their installation, reasonable wear and depreciation excepted. Grantor shall replace or repair worn out portions of the improvements as necessary. All such maintenance, repair and replacement shall be at the Grantor's sole expense.

(c) The property is not now and will not hereafter be used principally for agricultural or farming purposes.

6. INSURANCE AND INDEMNITY: Until full satisfaction of the obligations secured, the Grantor agrees to keep all buildings and improvements now existing or hereafter constructed on the property insured in an amount not less than the total debt secured against loss or damage by fire, windstorm, and all other casualties covered by "all risk" or extended coverage endorsements available in the State of Washington, in a company acceptable to the Beneficiary and for the Beneficiary's benefit as the Beneficiary's interest may appear, and to pay all premiums therefore, and to deliver all such policies to the Beneficiary. Each such policy shall provide that it will not be altered, amended or canceled without first giving ten (10) days written notice to the Beneficiary. In case of loss from a peril insured against, the proceeds of such insurance, less reasonable recovery costs, shall be devoted to the rebuilding of such improvements within a reasonable time, unless the Grantor elects that the proceeds be paid to the Beneficiary for application on the obligation secured. In the event of foreclosure, all rights of the Grantor in insurance policies then in force shall pass to the purchaser at the foreclosure sale.



The Grantor agrees to indemnify and hold harmless the Beneficiary from any liability, including attorney fees, to third parties arising hereafter from or connected with the ownership, possession or occupation of the property or any business or activity conducted on the property by the Grantor. The Grantor agrees to maintain general liability insurance covering liability for bodily injury or death, and property damage liability to third parties, with reasonable minimum limits, delivering to Beneficiary upon request a certificate of effective insurance coverage.

7. PROPERTY TAXES AND ASSESSMENTS: The Grantor agrees to pay before delinquency all taxes and assessments on the property and to keep the property free and clear of all other liens and encumbrances.

8. CONDEMNATION: If any part of the property is condemned, the portion of the condemnation award remaining after payment of reasonable recovery costs shall be paid to the Beneficiary and applied as payment on the obligation secured, unless the Beneficiary elects to allow the Grantor to apply all or a portion of such condemnation award to the rebuilding of any improvements damaged by the condemnation.

9. DUE ON SALE: If all or any part of the property or any interest in it is sold or transferred without Beneficiary's prior written consent, Beneficiary may, at its option, require immediate payment in full of all sums secured by this Deed of Trust. If Beneficiary exercises this option, Beneficiary shall give Grantor notice of acceleration. The notice shall provide a period of not less than thirty (30) days from the date the notice is delivered or mailed within which Grantor must pay all sums secured by this Deed of Trust. If Grantor fails to pay these sums prior to the expiration of this period, Beneficiary may invoke any remedies permitted by this Deed of Trust without further notice or demand on Grantor. If the Promissory Note secured by this Deed of Trust contains a prepayment fee provision, Beneficiary shall elect whether to enforce either the prepayment fee or the acceleration provision, but not both.

10. GRANTOR'S ENVIRONMENTAL REPRESENTATIONS AND WARRANTIES: Grantor has not caused or permitted the Property to be used as a site for the generation, manufacture, refining, transportation, treatment, storage, handling, disposing, transfer, producing or processing of hazardous substances, or other dangerous or toxic substances, or solid waste, except in compliance with all applicable federal, state, and local laws or regulations, and has not caused or permitted and has no knowledge of the release of any hazardous substances on or off-site of the Property.

11. GRANTOR'S INDEMNIFICATION OF BENEFICIARY FOR ENVIRONMENTAL COSTS: The Grantor shall indemnify Beneficiary and shall hold Beneficiary harmless from any and all loss, damages, suits, penalties, costs, liability, and expenses (including, but not limited to, reasonable investigation and legal expenses) arising out of any claim for loss or damage to any property, including the subject Property, injuries to or death of persons, contamination of or adverse effects on the environment, or any violation of statutes, ordinances, orders, rules, regulations of any governmental entity



or agency, caused by or resulting from any hazardous material, substance, or waste currently on or under the Property.

12. **BENEFICIARY'S REMEDIES UPON GRANTOR'S DEFAULT:** Timely performance of the Grantor's obligations is an essential part of this Agreement. In the event of Grantor's default, the Beneficiary has the following rights and remedies, which may be exercised at the Beneficiary's option:

- (a) **Acceleration:** To declare all sums secured by this Deed of Trust to be due and payable immediately.
- (b) **Nonjudicial Foreclosure:** To serve a written request upon the Trustee that the Trustee proceed with a nonjudicial foreclosure of the Deed of Trust, as set forth below.
- (c) **Judicial Foreclosure:** To file suit in the Superior Court of the county in which the property is located, in order to judicially foreclose the Deed of Trust as a mortgage.
- (d) **Suit on Intermediate Installments:** To bring action on any delinquent intermediate installments or other payments required of the Grantor.
- (e) **Specific Performance:** To bring suit in the Superior Court of the county in which the property is located in order to specifically enforce any of the Grantor's obligations.
- (f) **Cure by Beneficiary:** To cure the default. If the Beneficiary cures the default by making a money payment, such payment shall be added to the obligation secured and shall accrue interest thereafter at the rate of eighteen percent (18%) per annum until paid which shall be from the last payments made on the obligation secured.

13. **DEFINITION OF GRANTOR'S DEFAULT:** Each of the following shall constitute a default:

- (a) Failure of the Grantor to make any required payment or to perform any required obligation when due.
- (b) Assignment of the property by the Grantor for the benefit of creditors.
- (c) The occurrence of any of the following with respect to the property or the Grantor:
 - (i) The appointment of a non-bankruptcy receiver or trustee.
 - (ii) The institution by a corporate purchaser of any non-bankruptcy proceeding for dissolution or liquidation.

14. **TRUSTEE'S SALE:** In the event of Grantor's default and upon written request by the Beneficiary, the Trustee shall sell the property, in accordance with the Deed of Trust Act of the State of Washington, as amended, at public auction to the highest bidder. Any person except the Trustee may bid at the Trustee's sale. The Trustee shall deliver to the purchaser at the sale a Trustee's Deed, without warranty, which shall convey to the purchaser the interest in the property which Grantor had or had the power to convey at the time of the Grantor's execution of this Deed of Trust, and such



as the Grantor may have acquired thereafter. The Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all of the requirements of law and of this Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence in favor of bona fide purchasers and encumbrancers for value. The Trustee is not obligated to notify any party of any pending sale under any other Deed of Trust or of any action or proceeding in which the Grantor, the Trustee or the Beneficiary shall be a party unless such action or proceeding is brought by the Trustee and affects a property interest of another party. The Trustee shall apply the proceeds of the Trustee's sale as follows:

- (a) To the expense of the sale, including a reasonable Trustee's fee and attorney's fee.
- (b) To the obligations secured by this Deed of Trust.
- (c) The surplus, if any, shall be distributed to the persons entitled thereto or may be deposited, less the clerk's filing fee, with the clerk of the Superior Court of the county in which the sale takes place.

15. **SUCCESSOR TRUSTEE:** In the event of the death, incapacity, disability or resignation of the Trustee, the Beneficiary may appoint in writing a successor trustee, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original Trustee.

16. **WAIVER AND ELECTION:** The waiver by any party of a breach of any provision in this Deed of Trust, shall not be construed as a waiver of any subsequent breach of the same or any other provision of this Deed of Trust. Further, the exercise by the Beneficiary of any one of the Beneficiary's remedies as set forth above shall not be construed as an election of remedies as to any subsequent default.

17. **COSTS AND FEES:** If this Deed of Trust is placed in the hands of an attorney to protect or enforce the rights of any party against the other, the prevailing party shall recover its costs incurred, including but not limited to title reports, reasonable attorney fees and reasonable trustee's fees.

18. **BINDING EFFECT:** This Deed of Trust shall bind and benefit the parties, their heirs, successors and assigns.

19. **GOVERNING LAW AND VENUE:** This Deed of Trust shall be governed by the laws of the State of Washington. Venue of any legal action pertaining to this Deed of Trust may, at the option of any party, be laid in Chelan County Washington.

20. **ASSIGNMENT:** Should the Beneficiary desire to assign its interest herein to a successor Beneficiary, the Grantor will cooperate and sign necessary documents to facilitate the assignment, including, but not limited to, executing balance verifications and identity affidavits, providing financial and/or credit information, allowing inspection



of the real property for appraisal, and giving permission to obtain information on all other debts secured by the property which are owing by the Grantor PROVIDED THAT said cooperation will not cost the Grantor any monetary consideration.

DATED this 23 day of July, 2001.

GRANTOR:

Randall M. Phillips, Jr.
RANDALL M. PHILLIPS, JR.

BENEFICIARY:

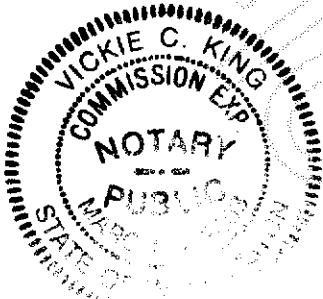
Michael Witmer
MICHAEL WITMER



STATE OF WASHINGTON)
COUNTY OF CHELAN)^{SS.}

I certify that I know or have satisfactory evidence that RANDALL M. PHILLIPS, JR., is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this 23rd day of July, 2001.

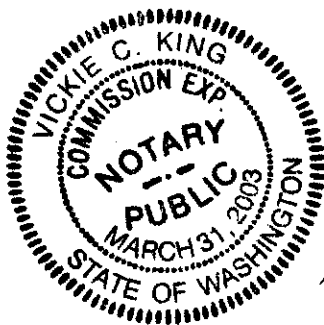


Vickie C. King
Print Name: **VICKIE C. KING**
Notary Public, State of Washington
Residing at: Rock Island
My Commission Expires: 3-31-2003

STATE OF WASHINGTON)
COUNTY OF CHELAN)^{SS.}

I certify that I know or have satisfactory evidence that MICHAEL WITMER, is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this 23rd day of July, 2001.



Vickie C. King
Print Name: **VICKIE C. KING**
Notary Public, State of Washington
Residing at: Rock Island
My Commission Expires: 3-31-2003

