



200512270010

Skagit County Auditor

12/27/2005 Page

1 of

8 10:00AM

Please send to:  
Attn Recording  
Jackie Frazier  
16975 Field Rd  
Bow, WA 98232

LAND TITLE OF SKAGIT COUNTY

**AGREEMENT AMONG TENANTS IN COMMON**

**Reference No.:**

**Section, Township and Range: Sec. 35, T36N, R2E**

**Tax Parcel No./Account No: P47388**

THIS AGREEMENT is made this 23<sup>rd</sup> day of December, 2005, by and among **Karen Billings and Clinton Billings, husband and wife and Diane Jacquelyn Frazier and Roy Frazier, husband and wife.** The parties hereto may be referred to collectively as "Tenants in Common" or "Parties" and individually as "Tenant in Common" or "Tenant".

**RECITALS**

1. This agreement is made contingent upon their parents, Glen Mitchell and Rosalie Mitchell selling to the Parties their beach house located on 10996 Samish Island Road, Bow, Washington 98232( Skagit County Assessor's Parcel No. P47388), hereinafter referred to as the "Property", and more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference.
2. The Property will be owned by the Parties in the following percentage interests:

Karen and Clinton Billings 50%

Diane Jacquelyn and Roy Frazier 50%

3. It is the intent of the Parties to hold the Property as Tenants-in -Common for their personal use and to agree to the following terms and conditions set forth herein the nature of their ownership of the Property and the relationship among themselves.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. **Ownership and Use.** Upon the transfer of the Property by Statuary Warranty Deed, each of the parties hereto shall be the owner of an undivided interest as set forth above of the ownership of all rights and liabilities relating to the Property. **Unless otherwise agreed to in writing, Karen and Clinton Billings shall have exclusive use of the Property from the 1<sup>st</sup> of each month through the 15<sup>th</sup> of each month and Roy and Diane Jacquelyn Frazier shall have exclusive use of the Property from the 16<sup>th</sup> of each month through the last day of each month.**
2. **Purpose.** The purpose for which the Tenants in Common will hold the Property is for their personal use. The parties may make further improvements to the residence, subdivide the Property, and may eventually sell the same in part or in whole in accordance with the terms of this agreement.
3. **Profits and Losses.** After acquiring an interest in the Property, any profits and losses of this tenancy in common shall be shared by the Tenants in accordance with their ownership percentages as set forth above.
4. **Financing.** After acquiring an interest in the Property, as between and among Tenants in Common, each Tenant shall pay his proportionate share of each and every cost or expense arising in connection with the acquisition and retention of the Property, including but not limited to, payments of taxes, insurance, assessments, legal and accounting fees, all in an amount equal to his undivided percentage ownership in the Property.
5. **Improvements on Repairs.** After acquiring an interest in the Property, the parties shall mutually agree on an annual budget for any renovation and repairs and share equally in the same.
6. **Default.** After acquiring an interest in the Property, each Tenant in Common will promptly contribute when as the same becomes due, his or her equal share of any future taxes, assessments, insurance premiums, or other costs on said real property. In the event that any party is unable to pay his share of such costs, the other Tenants in Common are authorized to make such payments on behalf of such party. Any such amount so advanced by one party on behalf of another, shall, bear interest at the rate of twelve percent (12%), per annum from the date of the advance and shall be due immediately upon written demand for payment in the manner hereinafter provided. If the full amount of such advance or advances, together with interest thereon, is not paid by the party for whom such advance was made within thirty (30) days after his receipt of said notice of demand for payment, then such party shall be a defaulting party hereunder. In the event of any sale of said real property, the net proceeds shall be divided among the Tenants in Common according to their respective ownership percentages, but there shall be deducted from the share of any defaulting party the delinquent advances, plus interest, to



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reimburse the other Tenants in accordance with this paragraph seven (7). In the event of a sale at a loss, such defaulting party shall bear his proportionate share of such loss and shall also be required to reimburse the other Tenants in Common for the amount of any advances made by reason of his default, with interest.

- 7. Management.** After acquiring an interest in the Property, all decisions relating to the management and sale of the real property shall be made by majority vote of the Tenants in Common which shall be taken as such meetings as are provided for herein. The Tenants in Common shall endeavor to meet annually to discuss management of the real property.
- 8. Salaries and Draws.** No Tenant in Common shall receive a salary for services rendered on behalf of the Tenants in Common unless otherwise agreed in writing by all of the Tenants in Common.
- 9. Bank Accounts.** All funds, if any, of the tenancy in common shall be deposited in the names of the Tenants in Common in such checking account or accounts as designated by the Tenants in Common, as necessary. Each of the Tenants in Common shall have the capacity to sign checks on behalf of the tenancy in common.
- 10. Books and Records.** A set of books and records reflecting all transactions of the tenancy in common, shall be kept and maintained by the Tenants in Common; and each Tenant in Common shall have access to and have the right to inspect and audit such books and records at any reasonable time.
- 11. Insurance.** The Tenants in Common may obtain liability and property damage insurance for their mutual protection and for the protection of their respective interests in the Property and any improvements thereon.
- 12. Improvements.** No improvements to the Property, which shall inure to the benefit of one or more of the Tenants in Common, shall be undertaken without prior, unanimous agreement by and among the Tenants in Common as to the location, specification, and ownership of said improvements.



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### **13. Transferability.**

- a. Except as otherwise provided herein, no Tenant in Common shall, except in strict accordance with this Agreement, sign, mortgage, encumber, or sell any rights or interests he may have in the tenancy in common or its real and/or personal property, or enter into any agreement as a result of which any person, firm or corporation shall become interested with him in the tenancy in common. Each party hereto irrevocably waives any and all right that he or she may have to maintain any action for partition with respect to his undivided interest in the real and personal property of this tenancy in common or to compel any sale thereof in accordance with any statutes now existing or hereafter enacted.
  
- b. At any time any Tenant in Common desiring to sell their undivided interest herein shall so inform the other Tenant in Common by written notice mailed by certified mail. Each of the other Tenants in Common shall have the option to purchase the Selling Tenant's interest on the terms as are described herein, provided said option to purchase is exercised in writing and mailed to the Selling Tenant within 30 days after the date of mailing of the Selling Tenant's notice of intention to sell. The Tenant exercising such option shall be entitled to purchase the interest offered for sale as her undivided interest. The Parties specifically agree as follows: If one Party ("Selling Party") desires to sell their interest and the other party ("Buying Party") cannot meet the terms of sale or is unwilling to purchase the Property, or find a buyer within 6 months of notification then the Property shall be sold and the proceeds split after deducting closing costs, and it is the intent of this provision that neither party will co-own the Property with a third party that they have not chosen.
  
- c. For the purpose of computing the price of any interest in the Property that is for sale. The parties may each obtain an real estate appraisal at their own expense and the purchase price shall be to half the average of the two appraisals, provided, however, that if improvements have been made to the Property after the last stipulated valuation, there shall be added to the appraisal price, the cost of the improvements made subsequent to the latest stipulated valuation. Any purchase price shall be payable in cash at the time of closing; title to said undivided interest shall be conveyed by statutory warranty deed, free of all encumbrances. The selling Tenant



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shall be required to provide purchasing Tenant with standard coverage title insurance.

- d. Upon the death of a Tenant in Common, each of the surviving Tenants in Common shall have the option to purchase, in the proportion described in subparagraph (b) above, the deceased Tenant's undivided interest. Such option shall be exercised by giving written notice to the legal representative of the estate of the deceased Tenant within thirty (30) days after the date of his appointment. The legal representative of the deceased Tenant in Common shall be required to sell such interest only in the event the entire interest of the deceased Tenant is acquired by exercise of said options. The price shall be determined pursuant to the provisions of subparagraph (c) above. Full payment for such undivided interest shall be made to the deceased Tenant's legal representative within 6 months (186) days of the date of notice that the purchase option will be exercised. This option shall not be exercisable with respect to a deceased Tenant's interest if the deceased Tenant's spouse inherits the deceased Tenant's interest and holds the same pursuant to the terms of this Agreement.
- e. In the event of bankruptcy or insolvency of a Tenant, or in the event of the attachment, levy, or execution against or upon a Tenant's undivided interest, or in the event that a Tenant's undivided interest is subject to a judicial sale under the laws of any local, state, or federal government, or if a Tenant's undivided interest is to be transferred by any legal action brought by any person, including the spouse or former spouse of said tenant, or by reason of the death of said spouse, the remaining Tenants shall have the right to purchase some or all of the Tenant's undivided interest that is subject to any such transfer or any legal action at the price and on the terms specified above in subparagraph (c). Such right shall commence upon the date on which all of the other Tenant's receive notice of the transfer or legal action and shall be exercisable according to the same procedure as set forth in subparagraph (b) above. If the entire Property interest subject to the transfer or legal action is not purchased by the remaining Tenants in a timely manner as set forth herein, it shall be a condition precedent to the effectiveness of any such transfer that the transferee of such interest agree in writing to be bound by all of the terms and conditions of this Agreement and to be included as a Tenant in Common pursuant to the terms hereof.
- f. The options contained herein shall not be transferable by the Tenants in Common.



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**14. Dispute Resolution.** In the event of a disagreement with respect to any matter arising under this Agreement or of the breach thereof or with respect to the conduct of the Tenants in Common business, such disagreement shall be determined by an Arbitrator agreed to by the Parties who shall conduct the arbitration in accordance with the Rules of Mandatory Arbitration of the Superior Court of Skagit County, State of Washington, and judgment upon any award or decision rendered may be entered by the Superior Court of the State of Washington for Skagit County. The decision of the arbitrator shall be binding on the Parties.

**15. Modification.** No change or modification of this Agreement shall be valid or binding upon the parties, nor shall any waiver of any term or condition thereof be deemed a waiver of such term or condition in the future, unless such change, modification or waiver shall be in writing signed by all the parties hereto.

**16. Binding Effect.** Except as provided herein, this Agreement shall inure for the benefit of and be binding upon the parties hereto, their legal representatives, heirs, and assigns.

**17. Duration.** This Agreement shall continue in force and effect as long as any two or more of the Tenants in Common hereto shall own an interest in said real estate.

**18. Severability.** If any term or provision of this Agreement, or the applicability thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held to be invalid or unenforceable, shall not be affected thereby and shall continue in full force and effect.

**19. Notices.** All notices hereunder may be delivered or mailed. If mailed, they shall be sent by certified or registered mail to the respective addresses of the parties set forth below; or to such other respective addresses as the parties hereto may hereafter from time to time designate in writing. Notices sent by mail shall be deemed to have been given when properly mailed, and the postmark affixed by the United States Post Office shall be conclusive evidence of the date of mailing.

| <u>Name</u>                     | <u>Address</u>                        |
|---------------------------------|---------------------------------------|
| Karen and Clinton Billings      | 8481 Brunger Road, Manassas, VA 20112 |
| Diane Jacquelyn and Roy Frazier | 16975 Field Road, Bow, WA 98233       |



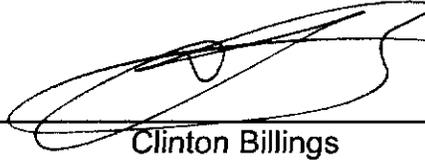
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**20. Prior Agreements.** This Agreement supersedes any and all prior oral or written agreements between or among the parties or any of them relating to the real property described herein.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement the day and year first above written.

  
Karen Billings

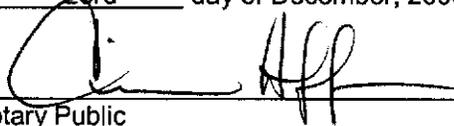
  
Clinton Billings

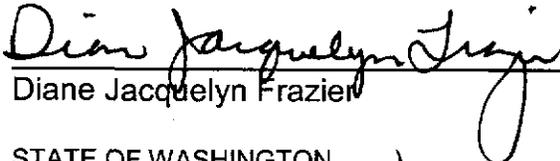
STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT )

I certify that I know or have satisfactory evidence that Karen Billings and Clinton Billings personally appeared before me and said persons acknowledged that they signed this instrument and acknowledged it as their free and voluntary act for the uses and purposes mentioned in the instrument.

DATED at Mount Vernon, Washington this 23rd day of December, 2005.

**CARRIE HUFFER**  
STATE OF WASHINGTON  
NOTARY --- PUBLIC  
MY COMMISSION EXPIRES 12-31-07

  
Notary Public  
My Commission expires:

  
Diane Jacquelyn Frazier

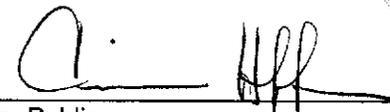
  
Roy Frazier

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT )

I certify that I know or have satisfactory evidence that Diane Jacquelyn Frazier and Roy Frazier, personally appeared before me, and said persons acknowledged that they signed this instrument and acknowledged it as their free and voluntary act for the uses and purposes mentioned in the instrument.

DATED at Mount Vernon, Washington this 23rd day of December, 2005.

**CARRIE HUFFER**  
STATE OF WASHINGTON  
NOTARY --- PUBLIC  
MY COMMISSION EXPIRES 12-31-07

  
Notary Public  
My Commission expires: 12-31-07



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**EXHIBIT "A"**

**Property Description**

BAT INT OF MEAN LI & E LI LT 4 TH N ALG E LI SD LT TO IRON STAKE TH  
100FT WLY T OSD STAKE TH SLY TO MEAN LI TH ELY TPB EXC TAX 5B

Situate in the County of Skagit, State of Washington.

Parcel ID: P47388

Xref ID: 360235-0-027-0004



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