



200612080065

Skagit County Auditor

12/8/2006 Page 1 of 5 10:08AM

When recorded return to:

Craig Sjoström
411 Main Street
Mount Vernon, Washington 98273

Grantors: Clyde H. Kelly & Debra Kelly, h/w

Grantees: Troy Stultz & Kristine Stultz, h/w

Legal Description: Lot 10A, Replat of Gibraltar Heights

Assessor's Property Tax Parcel or Account Nos.: 113588

Reference Nos of Documents Assigned or Released: N/A

Conveyance: Easement/ Road Maintenance Agreement

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

DEC 08 2006

Amount Paid \$
Skagit Co. Treasurer
By *[Signature]* Deputy

EASEMENT/ ROAD MAINTENANCE AGREEMENT

THIS AGREEMENT is made this 10th day of Nov, 2006, between Clyde H. Kelly & Debra Kelly, h/w ("Kelly"), and Troy Stultz & Kristine Stultz, h/w ("Stultz").

Recitals

- i. Kelly is the owner of the following-described real property, located in Skagit County, Washington:

Lot 10-A, Replat of Lot 10, GIBRALTER HEIGHTS, according to the plat thereof recorded in Volume 17 of Plats, page 12, records of Skagit County, Washington.

(Parcel No. P113588)

- ii. Stultz is the owner of the following-described real property, located in Skagit County, Washington:

Lot 9, Plat of GIBRALTER HEIGHTS, according to the plat thereof recorded in Volume 10 of Plats, pages 52 and 53, records of Skagit County, Washington.

(Parcel No. P78321)

- iii. Stultz's property does not have a legal easement over the Kelly property. A driveway extends along the Northwesterly portion of the Kelly property. The Stultz property is accessed from the said driveway.
- iv. The parties wish to enter into an agreement granting a legal easement, providing record access for the Stultz property; and providing for joint maintenance of the driveway.

Agreement

Now, therefore, in consideration of the mutual promises and covenants set forth herein, the sufficiency of which is acknowledged by all parties, IT IS HEREBY AGREED AS FOLLOWS:

1. Kelly hereby grants to Stultz a non-exclusive easement for ingress and egress over and across the "20' wide access and utilities easement" as set forth on the replat of Gibraltar Heights, such easement to benefit, run with, and be appurtenant to the Stultz property.
2. The parties agree to assume joint responsibility for maintenance of the roadway, per the following provisions:
 - a. All expenses and responsibility for maintenance of the roadway shall be shared equally amongst Kelly and Stultz, and their respective heirs, successors and assigns.
 - b. No improvements to the roadway shall be made by any person without the approval of all of the lot owners. No significant repair or maintenance expense shall be incurred, nor shall commitments (contractual or otherwise) be made to third parties, without the consent of all of the lot owners, provided that such consent shall not be unreasonably withheld.
 - c. The lot owners shall meet at least biannually to determine the nature and extent of any repairs or maintenance required to be performed to the roadway. Lot owners not participating in such meeting(s) will be deemed to have waived their voting rights for the meeting(s) in which they did not participate, and their lots will not be counted with respect to voting at such meeting(s). Lot owners may participate in such meetings by proxy, mail, telephone, or other appropriate manner as unanimously agreed to by the remaining lot owners.
 - d. Each lot shall be subject to the imposition of a lien for that lot's proportionate share of an expense or expenses incurred in connection with any road or the sediment pond, such lien to be placed of record and foreclosed in the manner provided by law for the foreclosure of mechanic's or materialman's liens. No lien shall be placed of record until a period of 30 days has elapsed following the



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mailing of a demand for payment by registered or certified mail, return receipt requested, to each lot owner who has failed to pay his or her proportionate share. Only one copy of the demand need be mailed, and shall be sent to the relevant lot owner(s) at the address to which that lot's County property tax statements are sent. The costs of placing the lien of record and enforcing the same, including reasonable attorney's fees, shall be added to the amounts due thereunder.

- e. Notwithstanding any other provisions of this Agreement, any damage to the roadway resulting from any action or omission of any of the owners of property benefitted by the roadway, including actions or omissions of such party's agents, invitees, guests, servants or employees, shall be repaired at that party's sole cost and expense. If such party fails to take appropriate action, within a reasonable time, then the remaining lot owners may do so and in that event the provisions of paragraph (d) above concerning the imposition of a lien shall apply.
- f. The provisions set forth herein shall touch, concern, and run with the land. Any or all of the lot owners subject to the provisions of this Agreement are specifically given the right to enforce this Agreement via any proceedings, whether sounding in law, in equity, or some combination thereof, against any person or persons violating or threatening to violate any of the provisions herein set forth, and to recover from such person(s) any damages suffered by them and resulting from such violation(s). If any legal action or proceeding is brought arising from this Agreement or the duties or obligations imposed herein, including but not limited to the imposition and/or enforcement of a lien as set forth in paragraph (d) above, then the prevailing party in such action or proceeding shall be entitled to its reasonable attorney's fees and costs.
- g. No waiver of a breach of any of the provisions hereof shall be construed as a waiver of any other breach of the same, nor shall failure to enforce or insist on the strict compliance with any of the provisions of this Agreement, either by forfeiture or otherwise, be construed as a waiver of that or any other provision herein set forth. The provisions herein set forth are to be construed as separate and independent of one another. The plural or singular forms of terms used in this Agreement are to be applied when the context requires it.
- h. The provisions of this Agreement are to be perpetual in nature and cannot be modified or abrogated except by the unanimous written and acknowledged consent of all of the lot owners subject hereto. This Agreement shall be binding upon all present and future lot owners, and their heirs, successors and assigns, and all persons claiming under or through them, for the benefit of all future lot owners. This Agreement shall be fully enforceable against each lot that is the subject hereof as it is presently constituted, and shall in addition apply equally to all portions of each such lot in the event such lot is subdivided, partitioned or otherwise physically divided.



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Clyde H. Kelly 11/10/06
CLYDE H. KELLY (date)

Debra Kelly 11/10/06
DEBRA KELLY (date)

Troy Stultz 12-7-06
TROY STULTZ (date)

Kristine Stultz 12/04/06
KRISTINE STULTZ (date)

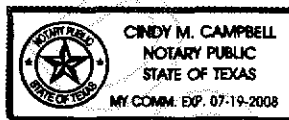
STATE OF TEXAS)
)
COUNTY OF Midland)

On this day personally appeared before me Clyde H. Kelly, to me known to be one of the individuals described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 10th day of November, 2006.

Cindy M. Campbell
NOTARY PUBLIC in and for the State of Texas, residing at
3300 N. "A" Blvd -100
My commission expires: 7/19/08
Name: Cindy M. Campbell

STATE OF TEXAS)
)
COUNTY OF Deer Park)

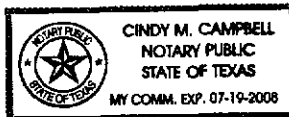


On this day personally appeared before me Debra Kelly, to me known to be one of the individuals described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 10th day of November, 2006.

Cindy M. Campbell
NOTARY PUBLIC in and for the State of Texas, residing at
3300 N. "A" Blvd -100
My commission expires: 7/19/08
Name: Cindy M. Campbell

STATE OF WASHINGTON)
)
COUNTY OF SKAGIT)



On this day personally appeared before me Troy Stultz, to me known to be one of the individuals described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.



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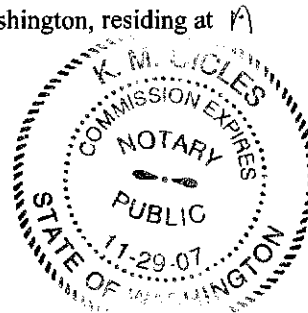
GIVEN under my hand and official seal this 7th day of December, 2006.

Km Oicles Km Oicles

NOTARY PUBLIC in and for the State of Washington, residing at 11
Anacortes, WA.

My commission expires: 11-29-07

Name: Km Oicles



STATE OF WASHINGTON)

:ss

COUNTY OF SKAGIT)

On this day personally appeared before me Kristine Stultz, to me known to be one of the individuals described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 4th day of December, 2006.

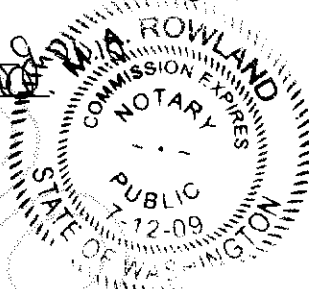
M. A. Rowland

NOTARY PUBLIC in and for the State of Washington, residing at

Anacortes, WA.

My commission expires: July 9, 2009

Name: M. A. Rowland



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