



201910220015

10/22/2019 08:45 AM Pages: 1 of 14 Fees: \$220.00
Skagit County Auditor

After Recording Return to:

Rob Crichton
Keller Rohrback L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101

Document Title:

Revocable License Agreement

Reference Number : 201904090090; 201809060131

Grantor(s):

additional grantor names on page .

1. Thomas R. Kelly

2. Joanne E. Kelly

Grantee(s):

additional grantee names on page_.

1. Nancy Hardwick

Abbreviated legal description:

✓ full legal on page(s) 9 .

Page 9, 10

Lot 29, Block 1, Lake Cavanaugh Subdivision, Division NO2

As per plate recorded in volume 5 of Plates, Pages 49 to 54 inclusive
records of Skagit County, Washington

Assessor Parcel / Tax ID Number:

additional tax parcel number(s) on page ____.

3938-001-029-0006; 3938-001-028-0007

ORIGINAL

REVOCABLE LICENSE AGREEMENT

This REVOCABLE LICENSE AGREEMENT (the "Agreement") is made by and between the following parties (collectively, the "Owners"): Thomas R. Kelly and Joanne E. Kelly, and their marital community ("Kelly"), and Nancy Hardwick, Trustee of the Family Trust for the benefit of Angelo Santos under the Will of Elizabeth A. Scherzo, dated June 28, 2016, as amended, and as Trustee of the Family Trust for the benefit of Diego Santos under the Will of Elizabeth A. Scherzo, dated June 28, 2016, as amended.

The Owners agree on and acknowledge the truth and accuracy of the following recitals.

A. Kelly is the holder of fee simple title to that certain property commonly known as 34711 South Shore Drive, Mt. Vernon, WA 98274, legally described on Exhibit A attached hereto (the "Kelly Property");

B. Decedent Elizabeth A. Scherzo, aka Elizabeth A. Scherzo de Santos, a single woman ("Scherzo"), was holder of fee simple title to that certain property commonly known as 34721 South Shore Drive, Mt. Vernon, WA 98274, legally described on Exhibit B attached hereto (the "Scherzo Property"). Nancy Hardwick ("Hardwick") is the Personal Representative of the Scherzo Estate. By Personal Representative's Deed recorded on April 9, 2019 at 201904090090, Hardwick conveyed an undivided 50% interest in the Scherzo Property to Nancy Hardwick, Trustee of the Family Trust for the benefit of Angelo Santos under the Will of Elizabeth A. Scherzo, dated April 28, 2016, as amended, and to Nancy Hardwick, Trustee of the Family Trust for the benefit of Diego Santos under the Will of Elizabeth A. Scherzo, dated April 28, 2016, as amended (collectively, "the Family Trust").

C. The Scherzo Property and Kelly Property share a common boundary; the western boundary of the Scherzo Property forms the eastern boundary of the Kelly Property.

D. Scherzo caused to be constructed on the Scherzo Property a bulkhead that partially encroaches onto the Kelly Property (the "Bulkhead") and a shed also partially encroaches onto the Kelly Property (the "Shed"). The Bulkhead encroaches onto the Kelly Property approximately 2.9 feet and the Shed encroaches onto the Kelly Property approximately 5.25 feet, as depicted on the survey performed by Stephen Anthony Zitkovitch of Zitkovitch Land Surveying, PLLC, recorded on September 6, 2018 under Auditor's File No. 201809060131, attached hereto as Exhibit C (the "Survey").

E. Kelly is willing to grant the Family Trust temporary permission to use and maintain the Shed and Bulkhead where currently located on the Kelly Property (the "Permitted Encroachments"). Kelly desires to grant a temporary revocable personal license to the Family Trust for the purpose of granting temporary permission to use and

maintain the Shed and Bulkhead (the "Permitted Encroachments") where currently located on the Kelly Property, on the following terms and conditions.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the parties agree as follows:

1. Grant of Temporary License. Kelly hereby grants to the Family Trust a temporary, exclusive license (the "License") over, under, across and upon those portions of the Kelly Property on which the Permitted Encroachments are currently located (collectively, the "License Area"). The License is granted "AS IS," without representations, warranties, guarantees, or assurances of any kind by Kelly, and subject to all matters of title and public record. The purposes of the License are expressly limited to use, maintenance and repair of the Permitted Encroachments as defined above.

2. Duration of License. Notwithstanding any terms in this Agreement to the contrary, (i) this Agreement is entirely personal to Angelo Santos and Diego Santos, beneficiaries of the Family Trust; (ii) under no circumstances shall Angelo Santos, Diego Santos, or the Family Trust be entitled to assign this Agreement or any rights hereunder to any other person or entity, whether voluntarily or involuntarily by operation of law; and (iii) this Agreement may be cancelled by Kelly, in its entirety, at any time, with or without cause, upon the delivery by Kelly to Hardwick or successor Trustee of the Family Trust of a unilateral written Notice of Cancellation (the "Cancellation Notice"), without the need for any consent or approval from Hardwick. Upon delivery of the Cancellation Notice, the License shall immediately terminate and be of no further force or effect, without the need to execute any further documentation, except that the terms of Sections 3, 4, and 5 below shall survive indefinitely notwithstanding any cancellation or termination of this Agreement. Within thirty (30) days after receipt of the Termination Notice by Hardwick or successor Trustee of the Family Trust, the Family Trust and its beneficiaries, including Angelo Santos and Diego Santos, shall have vacated the License Area, and remove the Shed and Bulkhead and all other personal property and fixtures located therein, at no cost to Kelly.

3. Maintenance of License Area by Scherzo. At all times during the term of the License, and at no cost to Kelly, the Family Trust and its beneficiaries, including Angelo Santos and Diego Santos, (i) shall be exclusively liable for all costs to maintain, repair and preserve the Permitted Encroachments, (ii) shall not cause or permit any environmental damage, contamination, pollution of or injury to the License Areas (or any portion of the Kelly Property) arising from any act or omission by Angelo Santos or Diego Santos (or by any of their family members, agents, employees or guests); and (iii) shall not cause or permit any lien, encumbrance or claim to be recorded against any portion of the License Areas or the Kelly Property arising from any acts or omissions by Angelo Santos or Diego Santos (or any of their family members, agents, employees or guests).

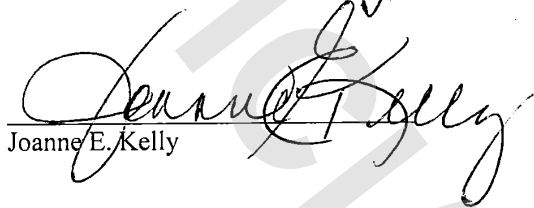
4. Obligation to Indemnify and Reimburse. The Family Trust and Angelo Santos and Diego Santos shall indemnify, defend, reimburse and hold harmless Kelly (as well as Kelly tenants, family members, agents, employees and guests) from and against all claims, suits, losses, judgments, fines, penalties, expenses, costs, obligations and liabilities, of any nature (including, without limitation, attorneys' fees) resulting from or arising out of any use or occupation of the License Areas by Angelo Santos or Diego Santos (or by any of their family members, agents, employees or guests).

5. Waiver of Claims. Except as expressly set forth in this Agreement, the Scherzo Estate, the Family Trust, and Angelo Santos and Diego Santos hereby waive any and all rights to state a claim or make demand for any right, title or interest in any portion of the License Areas or the Kelly Property, now or at any time in the future, either in law or equity, whether under a claim of adverse possession, prescriptive easement, or any other legal doctrine. The Scherzo Estate, the Family Trust, and Angelo Santos and Diego Santos further agree that all past and future possession and use of the License Areas shall be deemed to be by permission and not adverse, and that the maintenance of any of the Permitted Encroachments shall not be deemed acquiescence or acknowledgement of any change in the location of the boundary line shared by the Kelly Property and the Scherzo Property, as reflected in the recorded deeds.

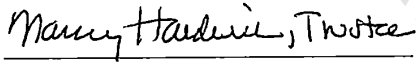
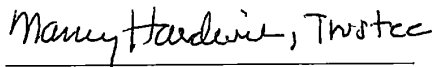
6. General Terms. This Agreement contains the entire agreement between the parties relative to the subject matter hereof. This Agreement may not be modified or amended except by a written agreement, executed in duplicate and exchanged by and between Kelly and Hardwick or by successor Trustee to the Family Trust. Sections 4,5, and 6 of this Agreement shall survive all amendments to the Agreement, and any cancellation or termination of the License. This Agreement may be recorded, but in no event shall it operate as a covenant running with the land, or in any way be binding on or beneficial to the Family Trust's successors and assigns. In the event of any dispute hereunder, the prevailing party in any litigation or other proceedings shall be reimbursed by the non-prevailing party for all costs and expenses, including without limitation, actual attorneys' fees. The Family Trust and Kelly shall each have the right to enforce all restrictions, covenants, and conditions imposed by the provisions of this Agreement, either at law and/or in equity. Any failure to enforce any requirement, restriction or standard herein contained shall not be deemed to be a waiver of the right to do so thereafter or in other cases, nor of the right to enforce any other restriction. All Exhibits attached hereto, and all recitals set forth above, are deemed incorporated into this Agreement by this reference.

SIGNATURES:

KELLY

Dated this 3 day of September, 2019.
Thomas R. Kelly
Joanne E. Kelly

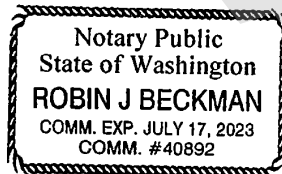
THE FAMILY TRUST

Dated this 20 day of August, 2019.
Nancy Hardwick, TrusteeNancy Hardwick, Trustee of the Family Trust
for the benefit of Angelo Santos under the Will
of Elizabeth A. Scherzo, dated June 28, 2016,
as amended
Nancy Hardwick, TrusteeNancy Hardwick, Trustee of the Family Trust
for the benefit of Diego Santos under the Will
of Elizabeth A. Scherzo, dated June 28, 2016,
as amended

STATE OF WASHINGTON)
) ss
COUNTY OF King)

On this 20 day of August, 2019, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Nancy Hardwick, Trustee of the Family Trust for the benefit of Angelo Santos under the Will of Elizabeth A. Scherzo, dated June 28, 2016, and Trustee of the Family Trust for the benefit of Diego Santos under the Will of Elizabeth A. Scherzo, dated June 28, 2016, as amended, to me known to be the individual that executed the foregoing instrument and acknowledged the said instrument to be her free and voluntary act of and deed for uses and purposes therein mentioned.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

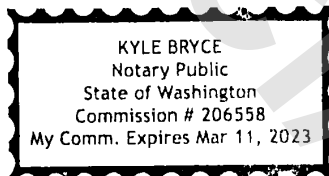


Robin J Beckman
Robin J Beckman (Printed Name)
Notary Public residing at: Renton, WA
My Commission Expires: 7-17-2023

STATE OF WASHINGTON)
) ss
COUNTY OF KITSAP)

On this 3 day of September 2019, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Thomas R. Kelly, to me known to be the individual that executed the foregoing instrument and acknowledged the said instrument to be his free and voluntary act of and deed for uses and purposes therein mentioned.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.



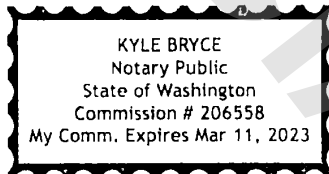
Kyle Bryce

(Printed Name)
Notary Public residing at: 175 Parhitt Way BI, WA
My Commission Expires: March 11th, 2023

STATE OF WASHINGTON)
) ss
COUNTY OF KITSAP)

On this 3rd day of September, 2019, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Joanne E. Kelly, to me known to be the individual that executed the foregoing instrument and acknowledged the said instrument to be her free and voluntary act of and deed for uses and purposes therein mentioned.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.



Kyle Bryce
Kyle Bryce (Printed Name)
Notary Public residing at: 175 Parfitt Way BI, WA
My Commission Expires: March 11th, 2023

Exhibit A

Lot 29, Block 1, Lake Cavanaugh Subdivision, Division NO2
As per plat recorded in Volume 5 of Plats, pages 49 to 54 inclusive,
records of Skagit County, Washington

Property Tax Parcel Number – 3938-001-029-006

Exhibit B

Lot 28, Block 1, LAKE CAVANAUGH SUBDIVISION, DIVISION NO, 2, according to the plat thereof recorded in Volume 5 of Plats, pages 49 through 54, records of Skagit County, Washington.

Situated in Skagit County, Washington.

Tax Parcel Number(s): 3938-001-028-007

Exhibit C

