

Filed for Record at Request of:

CSD Attorneys at Law P.S.
1500 Railroad Avenue
Bellingham, WA 98225
(360) 671-1796

REVIEWED BY
SKAGIT COUNTY TREASURER
DEPUTY Lena Thompson
DATE 05/15/2024

DOCUMENT TITLE(S):

VIEW PRESERVATION EASEMENT

GRANTOR(S) (First Name, Last Name):

SALLY KASS and MARK MALMQUIST

GRANTEE(S) (First Name, Last Name):

SALLY KASS and MARK MALMQUIST

ABBREVIATED LEGAL DESCRIPTIONS:

**LOT 16 & PTN LOT 15, BLK 197, CITY OF ANACORTES
LOT 14 & PTN LOTS 13 & 15, BLK 197, CITY OF ANACORTES**

[Full Legal on Pages 6 – 7 of Document]

TAX PARCEL NUMBERS:

**P56207 (the Benefitted Property)
P56206 (the Burdened Property)**

REFERENCE NUMBERS OF DOCUMENTS ASSIGNED/RELEASED:

N/A

VIEW PRESERVATION EASEMENT – 1

VIEW PRESERVATION EASEMENT

This **VIEW PRESERVATION EASEMENT** (the "Agreement") is made and executed on this 14th day of May, 2024 (the "Effective Date"), by **SALLY KASS and MARK MALMQUIST**, two single individuals ("Kass/Malmquist").

I. RECITALS

WHEREAS, Kass/Malmquist owns that real property commonly referred to as 2110 10th St, Anacortes, Washington 98221, and legally described on **Exhibit A** hereto (the "Benefitted Property");

WHEREAS, Kass/Malmquist owns that real property commonly referred to as 2114 10th St, Anacortes, Washington 98221, and legally described on **Exhibit B** hereto (the "Burdened Property") (the Benefitted Property and Burdened Property shall be collectively referred to herein as the "Properties"); and

WHEREAS, Kass/Malmquist desires to encumber the Burdened Property with a view preservation easement benefiting the Benefitted Property consistent with the terms and conditions provided herein.

NOW, THEREFORE, in consideration of the terms and conditions herein, it is agreed as follows:

II. TERMS AND CONDITIONS

1. **GRANT OF EASEMENT.** For the benefit of the Benefitted Property, Kass/Malmquist hereby grants and conveys a perpetual view preservation easement (the "Easement") over, across, and through the Burdened Property (the "Easement Area") as shown in **Exhibit C**.

2. **RESTRICTIONS ON USE OF EASEMENT AREA.** To achieve the purposes of the Easement, the owner of Burdened Property shall not do any of the following within the Easement Area:

a. Construct, erect, or otherwise build any structure, building, improvement, or other structure that stands higher than the house or garage as they stand on the Burdened Property on the Effective Date;

b. Construct, erect, or otherwise build any structure, building, improvement, or other structure on the northeastern corner of the Burdened Property, located between the existing house and the alley that lies north of the Properties;

c. Place any vehicle or temporary structure that stands higher than the garage stands on the Burdened Property on the Effective Date in the area between the house and the alley that lies north of the Properties;

d. Place, plant, or allow to grow any vegetation between the house and the alley, or alongside the house, that stands higher than the house or the garage as they stand on the Burdened Property on the Effective Date.

3. **FAILURE TO REMOVE EASEMENT VIOLATION.** If any structure, building, improvement, or vegetation within the Easement Area violates the terms of this Easement, the owner of the Burdened Property shall remove and/or trim the same at its sole cost and expense no later than ten (10) days after written notice from the owner of the Benefitted Property. In the event the owner of the Burdened Property fails to timely remove or trim any such structure, building, improvement, or vegetation after ten (10) days' written notice, the owner of the Benefitted Property shall be entitled to initiate dispute resolution as provided in Paragraph 10 of this Agreement, and obtain an order for the appropriate remedy. The owner of the Benefitted Property is further entitled to charge all costs associated with such dispute resolution to the owner of the Burdened Property, which costs the owner of the Burdened Property shall pay within ten (10) days of receipt of a written invoice. The remedies provided in this Paragraph are in addition to, and not limitation of, any other rights under law or equity.

4. **NO DEDICATION TO PUBLIC.** Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the said Properties to the general public, or for any public use or purpose whatsoever.

5. **BINDING NATURE OF AGREEMENT.** This Agreement, and the rights and obligations expressed herein, shall be perpetual in duration, shall constitute covenants running with the land, and shall bind and benefit, as applicable, the owners of the Properties, and their respective successors, devisees, transferees, heirs, executors, administrators, and assigns with respect to the Properties. The Easement shall not be extinguished by reason of merger.

6. **NOTICES.** Any notice or communication required or permitted by this Agreement shall be deemed to have been duly given if delivered personally to the owner to whom the notice or communication is directed, or, if mailed by registered or certified mail, with postage and charges prepaid. Such notice or communication shall be deemed to be given when personally delivered to such owner, or, if mailed, two (2) business days after the date of mailing. Any notice required under the Agreement shall be mailed to the owner at the mailing address on file for their Property with the Skagit County Assessor's Office.

7. **NO WAIVER.** No failure by the owner of either Property to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or any other covenant, agreement, term, or condition.

8. **AMENDMENTS.** Except as otherwise set forth herein, this Agreement may not be modified, amended, or terminated except by the written agreement of all owners, or their successors and assigns.

9. **PARAGRAPH HEADINGS.** The boldface word or words appearing at the commencement of the Paragraphs and Subparagraphs of this Agreement are included only as a guide to the contents thereof, and are not to be considered as controlling, enlarging, or restricting the language or meaning of those Paragraphs or Subparagraphs.

10. DISPUTE RESOLUTION PROCESS. The Property Owners shall exercise their best efforts in good faith to resolve any disputes arising out of this Agreement. Should the Property Owners be unable to amicably resolve any dispute concerning the Agreement, including the interpretation of this document, they must first attempt to negotiate in good faith between themselves. If good faith negotiation fails, then prior to commencing a lawsuit, the Property Owners shall submit the dispute to mediation for a minimum of three (3) hours. The Property Owners shall mutually agree upon a mediator to assist them in resolving their differences. If the Property Owners are unable to agree upon a mediator, the Property Owners shall apply to Volunteers of America Dispute Resolution Center: Skagit ("VADRCS") who shall appoint a mediator within thirty (30) days after one of the Property Owners gives notice that it is clear that they are unable to select a mediator. If VADRCS is no longer in existence at the time of a dispute under this Agreement, then the Property Owners shall petition the Skagit County Superior Court for appointment of a mediator. Each Property Owner shall bear his/her own expenses associated with the mediation but shall share equally the costs of the mediator.

10.1 If mediation is unsuccessful, the dispute shall be submitted to binding arbitration. Following mediation, any Property Owner may request arbitration by sending written notice to the other Property Owner(s) of such a request setting forth the basis for the arbitration and the issues to be submitted to the arbitrator. The Property Owners shall mutually agree upon an arbitrator to hear the dispute. If the Property Owners are unable to agree upon an arbitrator, the Property Owners shall petition the Skagit County Superior Court for appointment of an arbitrator.

10.2 The decision of the arbitrator shall be final and binding. The arbitrator shall have complete authority to control the manner and timing of the arbitration, including determining the permissible scope of discovery, if any. The decision of the arbitrator may be reduced to a judgment in a court of competent jurisdiction as provided herein. The Property Owners shall share equally the costs of the arbitrator.

11. CHOICE OF LAW. Washington law shall apply to this Agreement. It is agreed that the jurisdiction and venue of any legal action brought under the terms of the Agreement shall be exclusively in the Superior Court for Skagit County, Washington. The owners expressly waive any and all rights to a trial by jury in the event of legal action.

12. ATTORNEYS' FEES. The substantially prevailing owner in any action before the arbitrator and/or a court shall be entitled to an award of their reasonable attorneys' fees and costs.

13. SEVERABILITY. In case any one (1) or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

14. ENTIRE AGREEMENT. This is the entire agreement concerning this Agreement. The recitals and definitions set forth above are incorporated as if fully set forth herein. There are no other oral or written understandings.

IN WITNESS WHEREOF, the owners of the Benefitted Property and the Burdened Property have set their hands and signed this Agreement on the day and year first above written.

Sally Kass
SALLY KASS

Mark Malmquist
MARK MALMQUIST

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE

On this day personally appeared before me **SALLY KASS**, to me known to be the individual, or 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 MAY, 2024.

SEE ATTACHED CONTINUATION

Dennis Harris Sullivan
Print Name: DENNIS HARRIS SULLIVAN
NOTARY PUBLIC in and for the
State of California, Residing at LA QUINIA
My Commission Expires: 09-05-2025

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

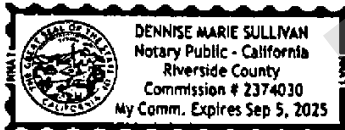
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of RIVERSIDE

On MAY 14, 2024 before me, Dennise Marie Sullivan - Notary Public, personally appeared
SALLY KASS

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Notary Seal

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.

Signature

Signature of Notary Public

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: VIEW PRESERVATION EASEMENT

Document Date: MAY 14, 2024 Number of Pages: 9

Signer(s) Other Than Named Above: MARK MALMQUIST

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner - ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner - ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

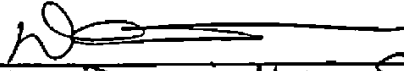
Signer Is Representing: _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

On this day personally appeared before me **MARK MALMQUIST**, to me known to be the individual, or 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 MAY, 2024.

Sos Attached Certificate


Print Name: DENISE MARIE SULLIVAN
NOTARY PUBLIC in and for the
State of California, Residing at La Quinta
My Commission Expires: 04-05-2025

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

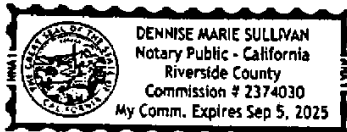
State of California

County of RIVERSIDE

On MAY 14, 2024 before me, Dennise Marie Sullivan - Notary Public, personally appeared

MARY MALMGUEST

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Notary Seal

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.

Signature

Signature of Notary Public

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: VIEW PRESERVATION EASEMENT

Document Date: MAY 14, 2024 Number of Pages: 9

Signer(s) Other Than Named Above: SALLY KISS

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner - ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner - ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

EXHIBIT A

**LEGAL DESCRIPTION OF BENEFITTED PROPERTY
P56207**

LOT 15, EXCEPT THE WEST ONE-FOURTH THEREOF, AND ALL OF LOT 16, BLOCK 197,
"MAP OF THE CITY OF ANACORTES, SKAGIT COUNTY, WASHINGTON," AS PER PLAT
RECORDED IN VOLUME 2 OF PLATS, PAGE 4, RECORDS OF SKAGIT COUNTY,
WASHINGTON.

SITUATE IN THE CITY OF ANACORTES, COUNTY OF SKAGIT, STATE OF WASHINGTON.

VIEW PRESERVATION EASEMENT - 7

EXHIBIT B

**LEGAL DESCRIPTION OF BURDENED PROPERTY
P52606**

THE EAST HALF OF LOT 13, AND ALL OF LOT 14, AND THE WEST QUARTER OF LOT 15,
BLOCK 197, MAP OF THE CITY OF ANACORTES, ACCORDING TO THE PLAT THEREOF,
RECORDED IN VOLUME 2 OF PLATS, PAGES 4 THROUGH 7, RECORDS OF SKAGIT
COUNTY, WASHINGTON.

SITUATE IN SKAGIT COUNTY, WASHINGTON.

EXHIBIT C

DIAGRAM OF BURDENED PROPERTY LAYOUT

| | | | |
|---|--|------------------------|-------------------|
| County: <u>Sno. Pass.</u> | | File No: <u>73034X</u> | |
| Property Address: <u>2114 10th Street</u> | | Case No: _____ | |
| City: <u>Anacortes</u> | | State: <u>WA</u> | Zip: <u>98221</u> |
| Lender: <u>Academy Mortgage</u> | | | |

Street

