

UNOFFICIAL

9602200123

12062

AFTER RECORDING RETURN TO:  
LAND TITLE COMPANY  
2801 COMMERCIAL AVENUE, SUITE #2  
ANACORTES, WA 98221

SKAGIT COUNTY WASHINGTON  
Real Estate Excise Tax

KATHY HILL  
SKAGIT COUNTY CLERK

FEB 20 1996

LAND TITLE COMPANY OF SKAGIT COUNTY

Amount Paid to Skagit Co. Treasurer  
By Deputy  
3,738.00  
1a

FEB 20 P 4:13

LTA-78409-E

RECORDED \_\_\_\_\_ FILED \_\_\_\_\_  
REQUEST OF \_\_\_\_\_

REAL ESTATE CONTRACT

February 16, 1996.

1. Seller, **ROBERT DARES** and **JOANN DARES**, husband and wife, agrees to sell to Purchaser, **JAMES A. DUTTON** and **LESSLEY DUTTON**, husband and wife, and Purchaser agrees to buy from Seller, the property commonly known as; 1014 26th., Anacortes, Skagit County, Washington, more fully described as follows:

Lots 16 and 17, Block 3, "PLAT OF HENSLER'S FIRST ADDITION TO THE CITY OF ANACORTES, SKAGIT CO., WASH.," as per plat recorded in Volume 3 of Plats; page 46, records of Skagit County, Washington.

This sale also includes the personal property described on "EXHIBIT A" attached hereto and incorporated herein.

2. PURCHASE PRICE: The purchase price is \$ 210,000.00 of which \$ 10,000.00 has been paid, receipt being acknowledged. Purchaser agrees to pay the balance of the purchase price, together with interest on deferred balances at the rate of ten percent (10%) per annum from date of closing, as follows:

2.1. Down Payment of \$ 10,000.00 cash due at date of closing, including earnest money. The remaining balance of \$ 200,000.00 shall be paid in monthly installments of 2,149.21, or more each, including interest, on the 20th day of each month, commencing March 20, 1996, and continuing on the same day of each ensuing month thereafter until the balance of principal and interest have been paid in full. The accrued interest shall first be deducted from each payment and the balance applied to principal.

2.2. All payments hereinabove required to be made by Purchaser shall be made at Wixson Management Trust, Burlington, Washington. All escrow fees shall be shared equally by Seller and Purchaser.

2.3 Concurrently herewith Seller shall execute a warranty deed, hereinafter referred to, which deed, together with a copy of this contract will be deposited in escrow with said escrow agent with appropriate instructions for delivery thereof to Purchaser when this contract has been fully satisfied.

2.4 The unpaid balance hereunder may be prepaid wholly or partially at any time without penalty.

3. POSSESSION: Purchaser shall be entitled to possession of the property at date of closing.

4. PERSONAL PROPERTY: This sale includes the personal property described on "EXHIBIT A" attached and incorporated herein by reference.

5. ASSESSMENTS AND TAXES: Purchaser shall pay, before delinquency, all taxes, assessments, water rents or water assessments, utility charges, and operation or construction charges not

9602200123

now delinquent, and all levied or assessed against the property and hereafter falling due; except the real estate taxes for year 1996 shall be prorated. In the event any taxes, assessments, rents or charges to be paid by Purchaser are paid by Seller, Purchaser shall promptly reimburse Seller. Upon failure of Purchaser to pay any taxes, assessments, rents or charges to be paid by Purchaser, Seller may, at their option, declare a forfeiture of this contract or pay and discharge any such tax, assessments, rent or charge, and any amount so paid shall be added to and be secured in the same manner as the unpaid purchase price.

6. IMPROVEMENTS: All improvements now or hereafter made to or placed on the property shall become a part thereof and shall not be removed.

7. LIENS, CHARGES AND ENCUMBRANCES: Purchaser shall pay, before delinquency of any debts secured thereby, all liens, charges or encumbrances hereafter lawfully imposed on the property, assumed by Purchaser in this contract or subject to which this purchase and sale is made; and shall not allow any part of the property to become subject to liens, charges or encumbrances having priority over the rights of Seller in the property. Notwithstanding anything to the contrary provided above in this paragraph 7, Purchaser shall not be responsible for any liens or encumbrances (or payment of the obligations secured thereby) imposed upon said property subsequent to the date of this contract by or through Seller unless such liens, encumbrances or obligations are expressly assumed by Purchaser.

8. EXISTING MORTGAGE OR SECURED OBLIGATION: Unless otherwise provided herein, if there is a mortgage or other secured obligation on the property, Seller shall keep the same current at all times, satisfy the same of record upon or prior to satisfaction of this contract, and indemnify, defend and hold Purchaser harmless with regard thereto. If Seller fails to make any payment thereunder, Purchaser may do so and, at Purchaser's election (a) receive credit therefor against the next due payments hereon, or (b) demand reimbursement from Seller, together with interest thereon at 1.5% per month, and institute suit to collect the same.

9. CONDITION OF PREMISES, UPKEEP: Purchaser shall maintain the property and all improvements now or later placed on the property in good state of repair and shall not allow or commit any waste. Breach of this provision shall entitle Seller, upon the giving of ten (10) days written notice, to go upon the property and perform such services and acts as are necessary to comply with this provision. The necessary costs and expenses of these services and acts shall be considered an indebtedness immediately payable to Seller, and which Seller has the right to collect, or, at Seller's option, shall be considered an obligation under the contract, shall be added to the principal of the contract, and shall bear interest at the contract rate from the date that the indebtedness was incurred. The methods of giving notice as herein provided shall be in the same manner as provided for in RCW 61.30.050 (2) (b) and (3).

10. USE OF PROPERTY: Purchaser shall not make nor allow any unlawful use of the property.

11. INSURANCE: Purchaser shall insure with companies satisfactory to Seller the buildings now or hereafter placed on the property and all personal property included in this contract in the sum of not less than its full insurable value, with loss thereunder payable first to any mortgagee who is such at the time of the execution hereof, then to Seller, then to Purchaser, as their respective interests may appear. The policy shall be held by Seller or mortgagee.

In the event of destruction of or damage to any said buildings or personal property and the collection of insurance during the life of this contract, the money received on said insurance may, at the option of Purchaser, be used in the restoration of said improvements, provided that Purchaser is not at the time in default under the provisions of this contract, and subject to the terms of any mortgage on the property. If Purchaser fails to procure insurance, Seller is authorized to do so, and the cost may be added to the balance due hereunder.

12. **CONDEMNATION:** If the property or any part shall be taken and condemned, such taking shall not be a ground for rescission of this contract. The award made for the taking shall be deemed to be the property of Purchaser, but shall be paid to Seller to apply upon the purchase price, not exceeding any amounts then unpaid hereunder.

13. **ASSIGNMENT OR CONVEYANCE:** The Purchaser shall not assign this contract without the written consent of the Seller. The Seller shall not unreasonably withhold such consent; and, once given, such consent shall not Waive the requirements of this paragraph as to any subsequent assignment of this contract.

14. **DESTRUCTION OF PROPERTY:** In the event of damage to or destruction of any buildings or improvements upon the property, such damage, as between the parties, shall be the loss of the Purchaser shall not be a ground for rescission of this contract or abatement of purchase price.

15. **DEED:** When Purchaser has fully performed this contract, Seller shall execute and deliver to Purchaser a statutory warranty deed conveying the property free and clear of all encumbrances, except any encumbrances agreed to by Purchaser.

16. **TITLE:** Seller shall obtain a standard Purchaser's form policy of title insurance showing insurable title in Seller as of the date of this contract, excepting matters herein expressly agreed to by Purchaser or herein expressly provided to be satisfied hereafter by Seller, and insuring Purchaser for the amount of the purchase price of the real property to be sold.

17. **SELLER'S REMEDIES:** Time is of the essence of this contract. If the Purchaser fails to make any payment or perform any obligation hereunder, Seller shall be entitled to exercise all rights and remedies as allowed by law or equity, including the right to elect one or more of the following remedies:

(1) To forfeit this contract under RCW 61.30, in which event, without limiting any remedies of Seller as provided by the said statute, all right, title and interest of Purchaser and parties claiming an interest in the real and/or personal property subject to this contract shall be cancelled and terminated; all prior payments shall be retained by the payee thereof; all improvements and unharvested crops shall be forfeited; and Seller shall be entitled to possession of the real and/or personal property, which right may be enforced under the provisions of RCW 59.12.

(2) To declare all amounts payable under this contract immediately due and payable and institute suit to collect such amounts, together with reasonable attorney's fees; provided if within thirty (30) days after commencement of such action, Purchaser cures the default(s) and pays to Seller, Seller's actual attorney's fees incurred and other taxable costs of suit, this contract shall be reinstated.

(3) To commence an action for the collection of past due payments or obligations arising prior to the date of judgment.

(4) To commence an action for specific enforcement of Purchaser's obligations under this contract (including redress by either a mandatory or prohibitive injunction).

(5) If Purchaser is in default under this contract and abandons the real and personal property, if any, subject hereto, pending the exercise of other rights or remedies as provided for herein, Seller may take immediate possession of the real and/or personal property for the purposes of preserving or otherwise protecting the property from loss, damage or waste.

18. **NONWAIVER:** Failure of Seller to insist upon strict performance of Purchaser's obligations hereunder (e.g. accepting late or partial payments) shall not be construed as a waiver by Seller of strict performance thereafter of all of Purchaser's obligations hereunder and shall not prejudice Seller's remedies as provided herein or by law or equity.

19. **VENUE:** If either party commences an action to enforce their rights under this contract, venue of such action, at the option of Seller, shall lie in Skagit County, Washington.

9602200123

20. **ATTORNEY'S FEES - COSTS:** In the event of a lawsuit between the parties to this contract, the prevailing party shall be entitled to recover judgment against the other party for reasonable attorney's fees (including title and lien searches) incurred either at trial or on appeal.

If either party exercises any nonjudicial right or remedy to enforce such party's rights hereunder, it shall be a condition for the cure of the default that the defaulting party pay the nondefaulting party's reasonable attorney's fees incurred and all reasonable costs, including costs of service of notice and title and lien searches. Failure to pay such costs and reasonable attorney's fees shall constitute an event of default under this contract.

21. **PURCHASER'S REMEDIES:** If Seller defaults with respect to Seller's obligations under this contract, and if such default continues for fifteen (15) days after Purchaser gives Seller written notice specifying the nature of the default and actions necessary to cure the default, Purchaser shall have the right to specifically enforce this contract, institute suit for damages caused by the default or pursue any other remedy allowed by law or equity.

22. **BINDING EFFECT:** This agreement shall be binding upon and shall inure to the benefit of the legal representatives and proper assigns and successors of the parties.

23. **OTHER AGREEMENTS:**

23.1 **SELLER'S INDEMNITY**

A. **ENVIRONMENTAL CONCERNS.**

SELLER shall defend, indemnify, and hold harmless PURCHASER from all claims, liabilities, damages, costs, and expenses (including, but not limited to, attorneys fees) resulting from any personal injury, premises damage, water pollution, asbestos claims, air pollution, hazardous waste contamination, hazardous substances contamination, damage to fish or wildlife, damage to fish or wildlife habitat, damage to natural resources, or, environmental harm arising out of or in connection with SELLER's use or occupation of the above-described premises, or arising out of or in connection with the use or occupation of prior owners or occupiers of the premises. Without limiting the generality of the foregoing, SELLER's obligations under this paragraph shall extend to any hazardous substance liability arising under common law or under any federal, state, local, or other governmental requirement presently in effect or promulgated in the future, as such laws, regulations, or rules may be amended from time to time. "Hazardous Substance" shall be interpreted broadly to mean any substances or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any federal, state, or local environmental law, regulation, or rule presently in effect or promulgated in the future, as such laws, regulations, or rules may be amended from time to time, and it shall be interpreted to include, but not be limited to, any substance which after release into the environment and upon exposure, ingestion, inhalation or assimilation, either directly from the environment or indirectly by ingestion through food chains or otherwise, will or may reasonably be anticipated to cause sickness, death, disease, behavior abnormalities, cancer or genetic abnormalities. SELLER's indemnity obligations under this agreement shall survive the consummation of this partnership termination and sale transaction. SELLER agrees that any indemnity obligation SELLER may incur pursuant to this agreement, is an obligation not dischargeable in bankruptcy. SELLER's indemnity obligation to PURCHASER shall also include indemnification for any problem that preexisted PURCHASER's occupation of the premises and continues during PURCHASER's occupation of the premises.

B. **PRODUCT LIABILITY**

SELLER shall defend, indemnify, and hold harmless PURCHASER from all claims, liabilities, damages, costs, and expenses (including, but not limited to, attorneys fees) resulting from any alleged

9602200123

BK 1521 PG 0357

defective products, or any other product liability claims arising out of or in connection with SELLER's business, use or occupation of the above-described premises, or arising out of or in connection with the use or occupation of prior owner or occupiers of the premises.

**C. SURVIVAL OF INDEMNITY**

SELLER's indemnity obligations under this agreement shall survive the consummation of this partnership termination and sale transaction.

**23.2 CROSS DEFAULT PROVISION**


SELLER is also selling to PURCHASER on real estate contract dated this same date, property located at: 2602 Commercial Ave., Anacortes, Skagit County, Washington. If PURCHASE is determined to be in default on that contract, as determined by a court of competent jurisdiction, PURCHASER shall also be in default on this contract.

SELLERS:

PURCHASERS:

  
ROBERT DARES

  
JAMES A. DUTTON

  
JOANN DARES

  
LESSLEY DUTTON

STATE OF WASHINGTON            )  
  ) ss  
County of Skagit                 )

On this 16 day of February, 1996, before me personally appeared JAMES A. DUTTON and LESSLEY DUTTON, husband and wife, to me known to be the 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.

Subscribed and sworn to before me this 16 day of February, 1996.

9602200123



EXHIBIT A

None

A handwritten signature in black ink, appearing to be "M. J. [unclear]", written over the "EXHIBIT A" text.

9602200123