

The Order of the Court is stated below:

Dated: January 09, 2019
05:00:10 PM

/s/ MICHAEL D. DIREDA
District Court Judge



--*W2963890*

REEVE LAW GROUP, P.C.
Richard H. Reeve (11291)
5160 South 1500 West
Riverdale, Utah 84405
Telephone: (801)389-9733
Email: rreeve@reevelawgroup.com
Attorney for Plaintiff

EH 2963890 PG 1 OF 7
LEANN H KILTS, WEBER COUNTY RECORDER
01-FEB-19 201 PM FEE \$22.00 DEF DC
REC FOR: REEVE LAW

IN THE SECOND JUDICIAL DISTRICT COURT

WEBER COUNTY, STATE OF UTAH

<p>EDEN HEIGHTS II, LLC, a Utah Limited Liability Company,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ELKHORN, LLC, a Utah Limited Liability Company,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">AMENDED ORDER TO REFORM DEED</p> <p style="text-align: center;">Case No. 170907567</p> <p style="text-align: center;">Judge Michael D. Direda</p>
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This Court, having reviewed the Parties' Stipulated Motion to Reform Deed, hereby orders as follows:

I. Issues with Grantee Name for Weber County Parcel # 22-006-0022.

- 1) There was a clerical error in the Special Warranty Deed recorded on August 28, 2006 in the Weber County Recorder's office as Entry # 2203742.
- 2) The Special Warranty Deed is associated with real property in Weber County, State of Utah that is described more particularly as:

LEGAL DESCRIPTION

Part of Section 15, Township 7 North, Range 1 East, Salt Lake Base and Meridian, US Survey described as follow:

Beginning at a point South 89°32'53" East 3142.32 feet and South 5790 feet, more or less, from the West Quarter Corner of Section 10, to a point intersecting the North line of County Road (Tax ID 22-006-0012); running thence in a Northeasterly direction along the North Line of said road to the intersection of the East line of said Section 15 and the North line of said road; thence North to the Northeast corner of said Section 15; thence North 89°25' West 2139 feet, more or less to a point due North of the point of beginning; thence South to the point of beginning.

Less and excepting that portion lying within the boundaries of Snowflake Subdivision Phase 3 Open Space.

Situate in Weber County, State of Utah.

Tax Identification Number: 22-006-0022 (referred herein as "the Property").

- 3) The Special Warranty Deed (the "1st Deed") mistakenly identified *Eden Heights, LLC* as the Grantee under the 1st Deed instead of *Eden Heights II, LLC*.
- 4) The parties intended for Eden Heights, LLC, to be identified as the Grantee under the Deed and the fee title owner of the Property.
- 5) Eden Heights, LLC was never intended to be the Grantee and has no connection to Plaintiff or the Property.
- 6) Therefore, the 1st Deed is herein reformed by this Order so that Eden Heights IIC, LLC is the Grantee under the Special Warranty Deed.
- 7) Eden Heights II, LLC is hereby determined to be the fee title owner of the Property under the 1st Deed.

II. Issue with Description of Property That Became Associated with Weber County Parcel # 22-006-0037.

- 1) There was an error in the legal description and amount of property conveyed in

the Special Warranty Deed recorded on August 24, 2006 in the Weber County Recorder's office as Entry # 2203221.

- 2) The Special Warranty Deed is associated with real property in Weber County, State of Utah that is described more particularly as:

THAT PROTION OF THE FOLLWING DESCRIBED PROPERTY WITHIN SECTION 15, TOWNSHIP 7 NORTH, RANGE 1 EAST, PART OF SECTIONS 10 & 15. TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE & MERIDAN, U S SURVEY DESCRIBED AS FOLLOWS: BEGINNING AT THE WEST ¼ CORNER OF SAID SECTION 10, RUNNING THENCE SOUTH 89D32'53" EAST 3142.32 FEET. THENCE SOUTH 5790 FEET, MORE OR LESS, TO A POINT INTERSECTING THE NORTH LINE OF COUNTY ROAD, (220060012), THENCE IN A NORTHEASTERLY DIRECTION ALONG THE NORTH LINE OF SAID ROAD TO THE INTERSECTION OF THE EAST LINE OF SECTION 15 AND THE NORTH LINE OF SAID ROAD, THENCE SOUTH ALONG THE EAST LINE OF SECTION 15, 4426.45 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF SECTION 15, THENCE WEST 2780.80 FEET, MORE OR LESS, TO THE EAST LINE OF SNOWFLAKE SUBDIVISION NO. 2. THENCE NORTH 33D21'37" EAST ALONG THE EAST LINE OF SAID SUBDIVISION 448,000 FEET, THENCE NORTH 28D47'14" EAST 212.18 FEET, THENCE NORHT 07D18'56" EAST 174.75 FEET, THENCE NORTH 01D02'19" EAST 93.65 FEET, THENCE NORHT 43D57'41" WEST 91.06 FEET, THENCE NORHT 46D02'19" EAST 60 FEET, THENCE WESTERLY ALONG THE NORHT SIDE OF A ROAD 16.70 FEET, THENCE NORTH 17D29'55" EAST 205.94 FEET, THENCE NORTH 00D35'18" EAST 175 FEET TO THE SOUTH LINE OF THE DICKENS PROPERTY (220060017) THENCE EAST ALONG SAID SOUTH LINE 1058.25 FEET, MORE OR LESS TO THE SOUTHEAST CORNER OF SAID DICKENS PROPERTY, THENCE NORTH 660 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF SAID DICKENS PROPERTY THENCE WEST 1320 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID DICKENS PROPERTY THENCE SOUTH 660.00 FEET, MORE OR LESS TO THE NORHT LINE OF SNOWFLAKE SUBDIVISION NO. 2, THENCE NORHT 77D43'19" WEST 396.99 FEET, THENCE SOUTH 14D43'12" EAST 201 FEET TO THE NORHT LINE OF SNOWFLAKE SUBDIVISION NO. 3. THENCE SOUTH 83D13'57" WEST 761.53 FEET TO THE EAST LINE OF THE WEST ½ OF THE SOUTHWEST ¼ OF SECTION 15, (220060019), THENCE NORHT ALONG SAID EAST LINE 1531.23 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF SAID WEST ½ OF SAID SOUTHWEST ¼, THENCE WEST 1845 FEET, MORE OR LESS, TO THE WEST LINE OF SECTION 15, THENCE NORTH ALONG SAID WEST LINE 5280 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.
 LESS AND EXCEPTING THEREFROM THE COUNTY ROAD. (220060012)
 LESS AND EXCEPTING THEREFROM SNOWFLAKE SUBDIVISION PHASE 3 OPEN SPACE (221870001)
 SUBJECT TO THE COUNTY ROAD AND A 30 FOOT RIGHT OF WAY AS SHOWN ON THE COUNTY PLAT (22006)
 EXCEPTING THEREFROM PARCEL OF LAND IN FEE FOR THE WIDENING OF THE EXISTING STATE HIGHWAY SR-158 KNOWN AS PROJECT NO. 0158, BEING PART OF AN ENTIRE TRACT SITUATE IN THE NORTHEAST ¼ SOUTHWEST ¼ OF SECTION 15, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN, IN WEBER COUNTY,

UTAH. THE BOUNDARY OF SAID PARCEL IS DESCRIBED AS FOLLOWS: BEGINNING ON THE WEST RIGHT OF WAY LINE OF STATE HIGHWAY SR-158 AT A POINT 48.92 FEET PERPENDICULARLY DISTANT WESTERLY FROM THE CONTROL LINE OF SAID PROJECT AT ENGINEER STATION 384+74.61, SAID POINT ALSO BEING 1382.48 FEET NORTH 0D19'52" EAST ALONG THE QUARTER SECTION LINE, AND 93.00 FEET WEST FROM THE SOUTH QUARTER CORNER OF SAID SECTION 15, RUNNING THENCE ALONG SAID WEST RIGHT OF WAY LINE THE FOLLOWING TWO (2) COURSES NORTH 14D24'10" EAST A DISTANCE OF 195.84 FEET; 2) NORTHEASTERLY 112.00 FEET ALONG THE ARC OF A 2304.05-FOOT RADIUS CURVE TO THE RIGHT (NOTE: CHORD BEARS NORTH 17D09'08" EAST FOR A DISTANCE OF 111.99 FEET); THENCE SOUTHWESTERLY 226.35 FEET ALONG THE ARC OF A 172.79-FOOT RADIUS CURVE TO THE LEFT (NOTE: CHORD BEARS SOUTH 40D48'46" WEST FOR A DISTANCE OF 210.51 FEET); THENCE NORTH 86D42'57" WEST A DISTANCE OF 15.00 FEET, THENCE SOUTHEASTERLY 58.04 FEET ALONG THE ARC OF A 187.79-FOOT RADIUS CURVE TO THE LEFT (NOTE: CHORD BEARS SOUTH 5D34'11" EAST FOR A DISTANCE OF 57.81 FEET); THENCE NORTH 75D34'35" EAST A DISTANCE OF 15.00 FEET, THENCE SOUTHEASTERLY 99.86 FEET ALONG THE ARC OF A 172.79-FOOT RADIUS CURVE TO THE LEFT (NOTE: CHORD BEARS SOUTH 30D58'46" EAST FOR A DISTANCE OF 98.47 FEET) TO THE POINT OF BEGINNING, AS SHOWN ON THE OFFICIAL PLANS FOR SAID PROJECT ON FILE IN THE OFFICE OF THE UTAH DEPARTMENT OF TRANSPORTATION. THE ABOVE DESCRIBED TRACT OF CONTAINS 20959 SQUARE FEET OR 0.481 ACRE IN AREA.

LESS AND EXCEPTING: PART OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN. US SURVEY BETTER DESCRIBED AS FOLLOWS: BEGINNING AT A POINT THAT FALLS NORTH 00D26'18" EAST 691.66 FEET ALONG THE SECTION LINE AND NORTH 89D47'26" WEST 142.38 FEET FROM THE BRASS MONUMENT LOCATING AT THE SOUTHEAST CORNER OF SAID SECTION 15. BASIS OF BEARING BEING THAT OF NAD 83 UTAH NORTH STATE PLANE GRID BETWEEN THE SAID SOUTHEAST CORNER AND THE EAST QUARTER CORNER OF SECTION 15 AND RUNNING THENCE SOUTH 87D30'30" WEST 56.03 FEET THENCE NORTH 88D08'24" WEST 91.67 FEET, THENCE NORTH 00D12'34" EAST 147.60 FEET, THENCE SOUTH 89D47'26" EAST 147.60 FEET THENCE SOUTH 00D12'34" WEST 147.60 FEET TO THE POINT OF BEGINNING, CONTAINS 0.50 ACRES.

[NOTE: BECAUSE THE DESCRIPTION OF RECORD DID NOT CONTAIN AN AREA FOR THIS PARCEL THE AREA FOR THIS PARCEL WAS CALCULATED BY THIS OFFICE FOR TAX PURPOSES.]

III. The Special Warranty Deed (the "2nd Deed") was intended to memorialize a Purchase and Sale Agreement, dated August 19, 2006, in which 1500 acres were to be conveyed from Elkhorn, LLC to Western America Holding, LLC and GY Eden Properties, LLC and various subsidiary entities, including Eden Heights, LLC and Eden Heights II, LLC.

IV. The 2nd Deed mistakenly included portions of a legal description and acreage that was intended to be conveyed to Eden Heights II, LLC and not to Western America Holding, LLC GY Eden Properties, LLC, or Eden Heights, LLC.

V. The following described real property and acreage, contained in Weber County parcel 22-006-0037, was to be conveyed to Eden Heights II, LLC. The property mistakenly included in the 2nd Deed is referred to herein as the "Remainder Parcel" and more particularly described as:

BEGINNING AT THE SOUTHEAST CORNER OF SECTION 15, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE NORTH 88°07'25" WEST ALONG THE SECTION LINE (RECORD NORHT 88°07'05" WEST), A DISTANCE OF 2654.01 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 15; THENCE NORTH 89°13'05" WEST ALONG THE SECTION LINE 156.86 FEET TO THE SOUTHEAST CORNER OF THE SNOWFLAKE SUBDIVISION NO. 2 AS RECORDED WITH ENTRY NO. 1342554 IN BOOK 39 AT PAGE 79 IN THE WEBER COUNTY RECORDER'S OFFICE; THENCE ALONG THE EAST BOUDNARY LINE OF SAID SNOWFLAKE SUBDIVISION NO. 2 THE FOLLWING NINE (9) COURSES: THENCE NORTH 33°21'37" EAST 448.00 FEET; THENCE NORTH 28°47'14" EAST 212.18 FEET; THENCE NORTH 07°18'56" EAST 174.75 FEET; THENCE NORTH 01°02'19" EAST 93.65 FEET; THENCE NORTH 43°57'41" WEST 91.06 FEET; THENCE NORTH 46°02'19" EAST 60.00 FEET TO A POINT ON A 271.42 FOOT NON-TANGENT RADIUS CURVE TO THE LEFT; THENCE NORTHWESTERLY 16.70 FEET ALONG THE ARC OF SAID NON-TANGENT CURVE THROUGH A CENTRAL ANGEL OF 03°31'28" (WHICH LONG CHORD BEARS NORTH 45°43'23" WEST 16.70 FEET); THENCE NORTH 17°29'55" EAST 205.94 FEET; THENCE NORTH 00°35'18" EAST 175.36 FEET TO THE SOUTH LINE OF COTTONWOOD CREEK SUBDIVISION AS RECORDED WITH ENTRY NO. 2488394 IN BOOK 71 AT PAGE 48 IN THE WEBER COUNTY RECORD'S OFFICE; THENCE ALONG THE SOUTH, EAST AND NORTH LINES OF SAID COTTONWOOD CREEK SUBDIVISION THE FOLLOWING THREE (3) COURSES: THENCE SOUTH 88°07'09" EAST (RECORD=SOUTH 88°08'07" EAST) 1086.82 FEET TO A FOUND ¾" REBAR; THENCE NORTH 00°26'45" EAST (RECORD=NORTH 00°24'29" EAST) 662.47 FEET; THENCE NORTH 88°13'53" WEST (RECORD=NORTH 88°12'39" WEST) 1068.24 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF POWDER MOUNTAIN ROAD; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES: THENCE NORTHEASTERLY 122.33 FEET ALONG THE ARC OF A 10,870.94 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGEL OF 00°38'41" (WHICH LONG CHORD BEARS NORTH 42°24'59" EAST 122.33 FEET); THENCE NORTH 45°15'31" EAST 242.89 FEET; THENCE NORTH 3032.47 FEET TO THE NORTH LINE OF SAID SECTION 15; THENCE SOUTH 88°36'40" EAST ALONG SAID NORTH LINE 2162.87 FEET TO THE NORTHEAST CORNER OF SAID SECTION 15; THENCE SOUTH 00°20'13" WEST ALONG THE EAST LINE OF SAID SECTION 15, A DISTANCE OF 2643.61 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 15; THENCE SOUTH 00°26'00" WEST ALONG SAID EAST LINE 2658.86 FEET TO THE POINT OF BEGINNING.

CONTAINS 11,373,432 SQ/FT OR 261.10 ACRES

VI. The "Remainder Parcel" was intended to included in the 1st Deed conveyance to Eden Heights II, LLC and included in Weber County parcel #22-006-0022.

VII. Therefore, the 1st and 2nd deeds are herein reformed by this Order so that the above-described Remainder Parcel is included as part of Weber County parcel #22-006-0022 and not included as part of Weber County parcel #22-006-0037.

VIII. Eden Heights II, LLC is hereby determined to be the fee title owner of the Remainder Parcel as herein described.

-----END OF ORDER-----

**JUDGE'S ELECTRONIC SIGNATURE APPEARS AT THE TOP OF THE FIRST PAGE
OF THIS DOCUMENT**

Signed Approved as to Form:

/s/ Aleta Cobabe (electronically signed with
Permission with an original on file with Plaintiff's counsel)

Aleta Cobabe
Manager and Member of Defendant, Elkhorn, LLC

Eden Heights II, LLC

/s/ Ed Bates (electronically signed with permission
With an original signature on file with Plaintiff's counsel)

Ed Bates
Authorized Manager of Eden Heights II, LLC

Date: December 31, 2018.

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of December 2018, I mailed a true and correct copy
of the foregoing *Amended Order of Deed Reformation* to:

Elkhorn, LLC
c/o Aleta Cobabe
4374 N. Snowflake Circle
Eden, Utah 84310

/s/ Estacia Lara