

JAN 31 2006

FILED IN  
4th DISTRICT COURT  
STATE OF UTAH  
UTAH COUNTY  
Jan 19 9 30 AM '06

**KAY BRYSON (#473)**  
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**RANDALL A. COVINGTON**  
**UTAH COUNTY RECORDER**  
2006 Feb 01 11:09 am FEE 0.00 BY LH  
RECORDED FOR UTAH COUNTY ATTORNEY

**IN THE FOURTH JUDICIAL DISTRICT COURT OF  
UTAH COUNTY, STATE OF UTAH**

UTAH COUNTY,

Plaintiff,

vs.

KENNETH E. MILLETT and MARGARET E.  
MILLETT,

Defendants.

**THIRD AMENDMENT TO  
STIPULATION**

Civil No. 020404974  
Division No. 8

The Defendants, Kenneth E. Millett and Margaret E. Millett, by their signatures hereunder, hereby waive formal service of Summons and Complaint in the above entitled action, hereby waive any defect in service of the Summons and Complaint in the above entitled matter, hereby make a general appearance in the above entitled matter, and hereby consent to the jurisdiction of the Court over said defendants, and over the property owned by the Defendants, as described herein.

The Plaintiff and the Defendants herein hereby agree that the Stipulation entered into and signed by the Plaintiff on the 7<sup>th</sup> day of January, 2003, and by the Defendants on the 26<sup>th</sup> day of

December, 2002, and filed with the court herein, (herein referred to as the "Original Stipulation"), and which Original Stipulation was amended pursuant to an Amendment to Stipulation entered into and signed by the Plaintiff on the 27<sup>th</sup> day of January, 2004, and by the Defendants on the 16<sup>th</sup> day of January, 2004, and filed with the court herein, (herein referred to as the "First Amended Stipulation"), and which Original Stipulation was further amended pursuant to an Second Amendment to Stipulation entered into and signed by the Plaintiff on the 9<sup>th</sup> day of November, 2004, and by the Defendants on the 17<sup>th</sup> day of October, 2004, and filed with the court herein, (herein referred to as the "Second Amended Stipulation"), be and hereby is further amended in the following respects only:

**Paragraph No. 1 has previously been amended to read as follows:**

1. That the Defendants are the owners of record of a parcel of real property located in Utah County, State of Utah, consisting of tax parcel serial number 14:045:0005, which parcel of real property is more particularly described as follows:

COMMENCING SOUTH 440 FEET FROM THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF SECTION 27, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 440 FEET; THENCE WEST 397.255 FEET; THENCE NORTH 24 DEGREES 45' WEST 484.505 FEET; THENCE EAST 600.098 FEET TO POINT OF BEGINNING. AREA = 5.04 ACRES.

and that the Defendants are also the owners of record of a parcel of real property located in Utah County, State of Utah, consisting of tax parcel serial number 14:045:0007, which parcel of real property is more particularly described as follows:

COMMENCING SOUTH 880 FEET FROM THE NORTHEAST CORNER OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 27, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, STATE OF UTAH; THENCE AS FOLLOWS:

SOUTH 440 FEET;

WEST 1320 FEET;

NORTH 440 FEET;

EAST 1320 FEET TO THE POINT OF BEGINNING;

LESS THE TERRITORY INCLUDED WITHIN THE CORPORATE LIMITS OF PLEASANT GROVE CITY IN THE OFFICIAL MAP THEREOF APPROVED BY THE CITY ON DECEMBER 30, 1939, AND BY THE UTAH COUNTY COMMISSIONERS ON JULY 1, 1940, AND RECORDED WITH THE UTAH COUNTY RECORDER ON JULY 3, 1940, UNDER MAP FILING NUMBER 152. NET AREA 4.97 ACRES.

SAID PARCEL IS ALSO DESCRIBED AS FOLLOWS:

COMMENCING SOUTH 880 FEET FROM THE NORTHEAST CORNER OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 27, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, STATE OF UTAH; THENCE AS FOLLOWS:

SOUTH 440 FEET;

WEST 1320 FEET;

NORTH 81.585 FEET;

SOUTH 89 DEGREES 36 MINUTES EAST 1091.516 FEET;

NORTH 24 DEGREES 45 MINUTES WEST 403.059 FEET;

EAST 397.255 FEET TO THE POINT OF BEGINNING.

AREA 4.97 ACRES.

The above described parcels of real property are collectively referred to herein as

the "Subject Property."

**Paragraph No. 19 is hereby further amended to read as follows:**

19. That the Defendants agree to perform each of the following, and further agree that the Court enter a mandatory injunction, requiring and mandating that the Defendants (i) remove, prior to the 1st day of August, 2004, all remaining vehicles from the Subject Property (except for not more than six (6) vehicles, all of which must be continually maintained with a valid Utah State Registration and in operable condition); (ii) remove, prior to the 1st day of October, 2006, all vehicle parts, debris, junk, inoperable equipment, equipment parts, unpermitted trailers, unpermitted structures, and mobile homes from the Subject Property; and (iii) take all additional action necessary to comply with all of the requirements of the Utah County Code and the Utah County Zoning Ordinance.

**Paragraph No. 20 is hereby further amended to read as follows:**

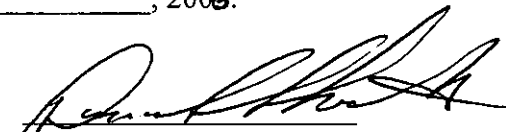
20. The Defendants agree and consent to the issuance by the above entitled Court of the Permanent Injunction and Mandatory Injunction requested by the Plaintiff, Utah County, and further agree and consent to the issuance by the Court of the Permanent Injunction and Mandatory Injunction in the form which is attached hereto as **Exhibit "A,"** and incorporated herein by this reference. The Defendants further waive service of a copy of the Permanent Injunction and Mandatory Injunction and hereby agree to be bound by all of the terms and provisions of the Permanent Injunction and Mandatory Injunction to be issued by the Court, in accordance with the attached Exhibit "A."

**Paragraph No. 23 is hereby further amended to read as follows:**

23 That in accordance with Section 7-29 of the Utah County Zoning Ordinance, the Plaintiff be awarded judgment against the Defendants, jointly and severally, in the amount of \$1,000 per day, for each day from and after the 1<sup>st</sup> day of October, 2006, that the Defendants, or either of them, are in violation of any provision of this Stipulation, or in violation of any provision of the Permanent Injunction and Mandatory Injunction, plus attorney's fees and costs.

This Third Amendment to Stipulation and the Permanent Injunction and Mandatory Injunction, Exhibit "A," shall be recorded in the records of the Utah County Recorder. Except as specifically amended herein, the terms and provisions of the Original Stipulation, as amended by the First Amended Stipulation, and the Second Amended Stipulation, shall remain in full force and effect, and are hereby ratified and reaffirmed by the parties.

DATED this 5 day of Jan, 2006.

  
DAVID H. SHAWCROFT  
Deputy Utah County Attorney

-----  
DATED this 5 day of Jan, 2006.

  
KENNETH E. MILLETT

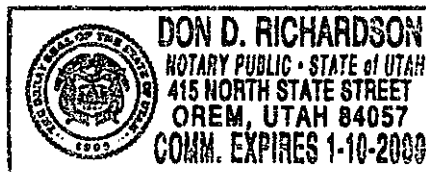
ACKNOWLEDGMENT

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STATE OF UTAH                    )  
  ) ss.  
COUNTY OF UTAH                )

On the 5<sup>th</sup> day of JANUARY, 200<sup>6</sup>5, personally appeared before me  
KENNETH E. MILLETT, who duly acknowledged to me that he executed the foregoing Stipulation.

  
NOTARY PUBLIC



-----  
DATED this \_\_\_\_ day of \_\_\_\_\_, 2005

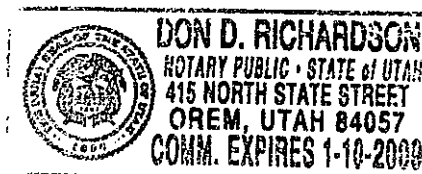
  
MARGARET E. MILLETT

ACKNOWLEDGMENT

STATE OF UTAH                    )  
  ) ss.  
COUNTY OF UTAH                )

On the 5<sup>th</sup> day of JANUARY, 200<sup>6</sup>5, personally appeared before me  
MARGARET E. MILLETT, who duly acknowledged to me that she executed the foregoing  
Stipulation.

  
NOTARY PUBLIC



**FILED**  
Fourth Judicial District Court  
of Utah County, State of Utah  
1/23/06 *jc* Deputy

**KAY BRYSON (#473)**  
Utah County Attorney  
**DAVID H. SHAWCROFT (#4248)**  
Deputy Utah County Attorney  
100 East Center Street, Suite 2400  
Provo, Utah 84606  
Telephone: (801) 370-8001  
Facsimile: (801) 370 -8009

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**IN THE FOURTH JUDICIAL DISTRICT COURT OF  
UTAH COUNTY, STATE OF UTAH**

---

UTAH COUNTY,

Plaintiff,

vs.

KENNETH E. MILLETT and MARGARET  
E. MILLETT,

Defendants.

PERMANENT INJUNCTION  
AND  
MANDATORY INJUNCTION

Civil No. 020404974  
Division No. 8

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Based upon the Stipulation of the parties to the entry by the Court of a permanent injunction and mandatory injunction, and the Court having reviewed the Verified Complaint filed herein, the Stipulation filed herein, the Amendment to Stipulation filed herein, the Second Amendment to Stipulation filed herein, the Third Amendment to Stipulation filed herein(collectively referred to herein as the "Stipulation"), and it appearing to the Court that irreparable harm will result to the Plaintiff herein if this permanent injunction and mandatory injunction is not issued.

NOW THEREFORE, it is hereby ordered, adjudged, and decreed as follows:

1. The Defendants, Kenneth E. Millett and Margaret E. Millett, their agents, servants, employees, lessees, and attorneys, successors in interest relative to ownership of the land and all persons in active concert or participation with the Defendants, who receive notice of the Order, are hereby permanently enjoined and restrained from using, or allowing to be used, the Subject Property (i) for the maintenance of an outdoor storage yard; (ii) for the placement of more than one (1) dwelling unit; (iii) for the placement of structures for which a valid building permit has not been issued; (iv) for the placement or storage of any vehicles, except for not more than six (6) vehicles, all of which must be continually maintained with a valid Utah State Registration and in operable condition; and (v) for the placement or storage of vehicle parts, debris, junk, inoperable equipment, equipment parts, unpermitted trailers, unpermitted structures, or mobile homes.
2. The Court hereby enters a mandatory injunction requiring and ordering the Defendants, Kenneth E. Millett and Margaret E. Millett, to (i) remove, prior to the 1st day of August, 2004, all remaining vehicles from the Subject Property (except for not more than six (6) vehicles, all of which must be continually maintained with a valid Utah State Registration and in operable condition); (ii) remove, prior to the 1st day of October, 2006, all vehicle parts, debris, junk, inoperable equipment, equipment parts, unpermitted trailers, unpermitted structures, and mobile homes from the Subject Property; and (iii)

take all additional action necessary to comply with all of the requirements of the Utah County Code and the Utah County Zoning Ordinance.

3. The Subject Property is located in Utah County, State of Utah, tax parcel serial number 14:045:0005, and tax parcel serial number 14:045:0007, which parcels of real property are more particularly described as follows:

Parcel One:

COMMENCING SOUTH 440 FEET FROM THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF SECTION 27, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 440 FEET; THENCE WEST 397.255 FEET; THENCE NORTH 24 DEGREES 45' WEST 484.505 FEET; THENCE EAST 600.098 FEET TO POINT OF BEGINNING. AREA = 5.04 ACRES.

Parcel Two:

COMMENCING SOUTH 880 FEET FROM THE NORTHEAST CORNER OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 27, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, STATE OF UTAH; THENCE AS FOLLOWS:

SOUTH 440 FEET;  
WEST 1320 FEET;  
NORTH 440 FEET;  
EAST 1320 FEET TO THE POINT OF BEGINNING;

LESS THE TERRITORY INCLUDED WITHIN THE CORPORATE LIMITS OF PLEASANT GROVE CITY IN THE OFFICIAL MAP THEREOF APPROVED BY THE CITY ON DECEMBER 30, 1939, AND BY THE UTAH COUNTY COMMISSIONERS ON JULY 1, 1940, AND RECORDED WITH THE UTAH COUNTY RECORDER ON JULY 3, 1940, UNDER MAP FILING NUMBER 152. NET AREA 4.97 ACRES.

SAID PARCEL IS ALSO DESCRIBED AS FOLLOWS:

COMMENCING SOUTH 880 FEET FROM THE NORTHEAST CORNER OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 27, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, STATE OF UTAH; THENCE AS FOLLOWS:

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EAST 397.255 FEET TO THE POINT OF BEGINNING.  
AREA 4.97 ACRES.

The above described parcels of real property are collectively referred to herein as the "Subject Property."

4. In accordance with Section 7-29 of the Utah County Zoning Ordinance, the Plaintiff is awarded judgment against the Defendants, Kenneth E. Millett and Margaret E. Millett, jointly and severally, in the amount of \$1,000 per day, for each day from and after the 1<sup>st</sup> day of October, 2006, that the Defendants, or either of them, are in violation of any provision of the Stipulation, or in violation of any provision of this Permanent Injunction and Mandatory Injunction, plus attorney's fees and costs.
5. All of the terms and provisions of the Stipulation are hereby approved by the Court.
6. For inspection to affirm compliance with the terms and provisions of the Stipulation and with this Permanent Injunction and Mandatory Injunction, Defendants shall provide to the County reasonable access (within 24 hours of written request) to the Subject Property, and any building located on the Subject Property, to observe that there is compliance.

7. This Permanent Injunction and Mandatory Injunction and the Stipulation, shall be recorded in the office of the Recorder of Utah County.
8. The Plaintiff shall be awarded judgment against the Defendants, jointly and severally, for all court costs and a reasonable attorney's fee for any action taken by the Plaintiff after the date of this Permanent Injunction and Mandatory Injunction, to enforce or construe the terms and provisions of this Permanent Injunction and Mandatory Injunction, or of the Stipulation.
9. This Permanent Injunction and Mandatory Injunction replaces the Permanent Injunction and Mandatory Injunction issued by the Court on the 10<sup>th</sup> day of January, 2003, replaces the Permanent Injunction and Mandatory Injunction issued by the Court on the 9<sup>th</sup> day of February, 2004, and replaces the Permanent Injunction and Mandatory Injunction issued by the Court on the 29<sup>th</sup> day of November, 2004, and shall be effective as of the date it is issued by the Court.

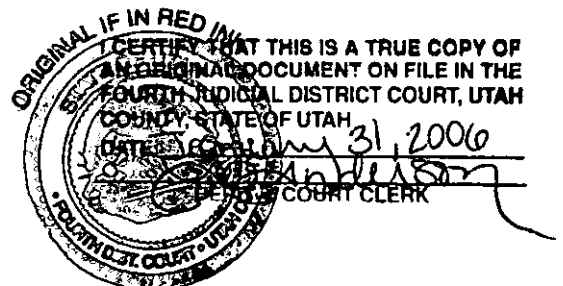
DATED this 23 day of Jan, 2006 at the hour of 4:00 a.m./p.m.


BY THE COURT

Anthony W. Scheffold  
District Court Judge

APPROVED AS TO FORM AND CONTENT:

Kenneth E. Millett  
KENNETH E. MILLETT  
Defendant



  
MARGARET E. MILLETT  
Defendant

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