

When Recorded Mail To:
Moyle & Draper, P.C.
175 East Fourth South
Salt Lake City, Utah 84111

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RIGHT-OF-WAY AGREEMENT

This Right-of-Way Agreement is entered into as of this 31st day of March, 1997, by and among Wayne G. Petty, hereinafter referred to as "Petty," Dorothy J. Wallin and Marvin W. Wallin, as Trustees of the Dorothy J. Wallin Revocable Trust dated September 3, 1991, hereinafter referred to as "Wallin," and Max D. Eliason and Joyce S. Eliason, hereinafter referred to as "Eliason."

RECITALS:

A. Petty owns the following-described parcel of land, hereinafter referred to as "Parcel I," situated in Salt Lake County, Utah:

Commencing at a point South 93 rods (1534.50 feet), South 61° West 2.29 rods (37.785 feet), West 219.0 feet, North 33°20' West 71.55 feet and South 60°40' West 421.74 feet from the Northeast corner of the Northwest quarter of Section 3, Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence South 60°40' West 278.73 feet; thence South 55°40' East 217.32 feet; thence North 60°40' East 182.27 feet; thence North 29°20' West 194.77 feet to the point of commencement. Contains 1.09 acres.

B. Petty claims access to Parcel I by a right-of-way described as follows:

Commencing at a point 93 rods South, South 61° West 2.29 rods, West 219 feet, North 33°20' West 71.55 feet and South 60°40' West 700.47 feet from the Northeast corner of the Northwest quarter of Section 3, Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence South 60°40' West 316.68 feet to the Northerly line of Lynn Lane; thence South 40° East along said line 16.28 feet; thence North 60°40' East 323.39 feet; thence South 55°40' East 59.15 feet; thence North 34°20' East 16.0 feet; thence North 55°40' West 69.08 feet; thence South 60°40' West 17.85 feet to the point of beginning.

C. Wallin owns the following-described parcel of land, hereinafter referred to as "Parcel II", situated in Salt Lake County, Utah:

Parcel A:

Beginning at the Southwest corner of Lot 12, ORCHARD GARDENS, a subdivision of part of the Northwest quarter of Section 3, Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence North 60°40' East 245.86 feet; thence North 29°20' West 55.03 feet; thence South 61°38' West 57.50 feet; thence North 87°58' West 77.44 feet; thence South 56°48' West 138.94 feet to the West line of said Lot 12; thence -South 40°00' East 88.47 feet to the point of beginning.

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SK 7641 PG 0644

LTC #17620

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Parcel B:

Beginning at the Southwest corner of Lot 12, ORCHARD GARDENS, a subdivision of part of the Northwest quarter of Section 3, Township 2 South, Range I East, Salt Lake Base and Meridian, and running thence North 40°00' West 88.47 feet; thence South 56°48' West 33.24 feet; thence South 40°00' East 86.19 feet; thence North 60°40' East 33.58 feet to the point of beginning.

D. Eliason owns the following-described parcel of land, hereinafter referred to as "Parcel III", situated in Salt Lake County, Utah:

All of LOT 205, BRIARWOOD ESTATES NO. 2 SUBDIVISION, according to the official plat thereof.

E. A portion of the strip of land described in Recital B adjoins Parcel II and is within Parcel III, which portion is hereafter referred to as the "Right-of-Way," and is described as follows:

Commencing at the Northeasterly corner of Lot 205, Briarwood Estates No. 2 Subdivision, according to the official plat thereof, and running thence South 60°40' West along the Northerly line of said subdivision and the Southerly line of Orchard Gardens, according to the official plat thereof, 264.97 feet to Lynn Lane; thence South 40° East along Lynn Lane 16.28 feet; thence North 60°40' East to the Easterly line of said Lot 205 Briarwood Estates No. 2 Subdivision, thence North 14°20' West 16.56 feet to the point of beginning.

F. Eliason, Petty and Dorothy J. Wallin, as the predecessor in interest of Wallin, entered into a Restrictive Covenant Agreement dated as of the 9th day of September, 1988 with respect to the use of Parcel I, but which never was recorded. This Right-of-Way Agreement is being executed by the parties hereto as a replacement for said Restrictive Covenant Agreement.

WITNESSETH:

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable considerations, the receipt and sufficiency of which hereby are acknowledged, the parties hereto hereby agree as follows:

1. The Right-of-Way may be used by the owner of Parcel I to provide access by vehicular and pedestrian traffic and, under the circumstances provided for in the following paragraph 2, to provide utility lines and services to Parcel I and to only one single family dwelling on Parcel I and facilities related thereto. It cannot be used for access to more than one single family dwelling unit on Parcel I or to any duplex or other multiple family dwelling unit on Parcel I.

2. The Right-of-Way may be used to bury utility lines for electricity, telephone, cable TV, natural gas, sewer, and water services to Parcel I, only under the following described circumstances:

(a) If the owner of Parcel I shall have been informed by the proposed provider of the utility service in question, or shall have otherwise reasonably determined, either: (i) that there is not in existence nor can there conveniently be acquired any other easement or right-of-way that would enable the installation of the utility lines necessary to furnish the utility service in question to Parcel I; or (ii) that, in view of the location of the existing lines of the prospective utility provider (and, if relevant, the topography of the areas involved), the most practical or the least expensive alternative for furnishing the utility service in question to Parcel I would be for the necessary lines to be installed in the Right-of-Way.

(b) Any damage done to the surface of the Right-of-Way, or to any other utility lines located thereunder, as a result of installation of utility lines for service to Parcel I shall be repaired, at the sole cost of the owner of Parcel I, in such a way that the Right-of-Way surface or such other lines are restored to at least as good a condition as existed prior to the damage.

3. The owner of Parcel I shall be responsible for the cost of repairing any damages caused to the surface of the Right-of-Way and to any other utility lines located thereunder by usage for the benefit of Parcel I, normal wear and tear excepted. After a single family dwelling unit is built on Parcel I, the owner thereof shall be responsible thereafter for paying a reasonable proportion of the costs of maintaining the Right-of-Way in good repair and condition.

4. The owner of Parcel I shall have the right to make one or more conveyances of a portion or portions of Parcel I to adjoining land owners; provided, however, that not more than one single family residence located on Parcel I shall be entitled to use the Right-of-Way. In addition, no such adjoining land owner who receives such a conveyance shall obtain by reason of such conveyance any rights to the use of the Right-of-Way for purposes of obtaining access to such adjoining land or, except as allowed by the following sentence, to the portion of Parcel I received by him or her by such conveyance. If Parcel I is divided into more than one part, the owner of the largest of the parts shall have the right to use the Right-of-Way for access to such largest part of Parcel I. There is a property presently owned by Lars Finderup which is located between Parcel I and Parcel III, and which hereinafter is referred to as Parcel IV. Notwithstanding other provisions of this paragraph 4, this paragraph 4 shall in no event preclude the owner of Parcel IV from using the Right-of-Way to gain access to Parcel IV or to any portion of Parcel I which adjoins Parcel IV and which may become owned by him or her.

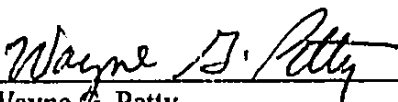
5. The covenants and conditions contained herein shall run with the land with respect to Parcel I, Parcel II, Parcel III and Parcel IV irrespective of who is or are the then owners thereof.


6. Wallin and Eliason agree that they have no claims challenging the validity of the Right-of-Way for the benefit of Parcel I for the uses described in this Right-of-Way Agreement or if they have any such claims they are hereby waived and relinquished. Wallin and Eliason also agree, insofar as their interests in the Right-of-Way property are concerned, that the Right-of-Way is a good and valid right-of-way for the benefit of Parcel I, for the uses described herein.

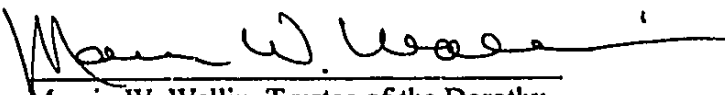
7. The said Restrictive Covenant Agreement dated as of the 9th day of September, 1988, between the parties hereto, hereby is terminated and replaced by this Right-of-Way Agreement.

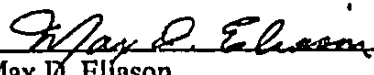
8. This Agreement is not intended and shall not be construed to replace, terminate, or diminish any preexisting access rights associated with or appurtenant to Parcel I. Notwithstanding the foregoing sentence, Parcel I shall, in any event, be and is hereby made subject to the provisions of this Agreement.

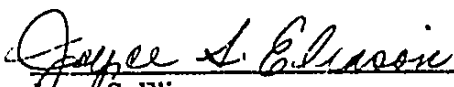
This Right-of-Way Agreement is executed by the parties hereto as of the day and year first hereinabove written.


Wayne B. Petty


Dorothy J. Wallin, Trustee of the Dorothy
J. Wallin Revocable Trust dated September
3, 1991


Marvin W. Wallin, Trustee of the Dorothy
J. Wallin Revocable Trust dated September
3, 1991

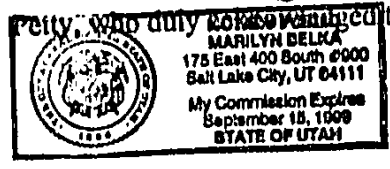

Max D. Eliason


Joyce S. Eliason

04/11/97 11:48 AM 6617500 23.00
RECORDER, SALT LAKE COUNTY, UTAH
LANDMARK TITLE
REC BY:V ASHBY DEPUTY - WI

STATE OF UTAH)
)
) : ss.
COUNTY OF SALT LAKE)

On the 3 day of ^{April} ~~March~~, 1997, personally appeared before me Wayne G. ~~city, who duly acknowledged~~ to me that he executed the foregoing instrument.

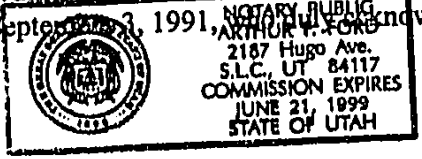


Marilyn Belka
NOTARY PUBLIC
Residing at _____

My Commission Expires:
9-15-99

STATE OF UTAH)
)
) : ss.
COUNTY OF SALT LAKE)

On the 1st day of ^{April} ~~March~~, 1997, personally appeared before me Dorothy J. Wallin and Marvin W. Wallin, Trustees of the Dorothy J. Wallin Revocable Trust Dated September 3, 1991, ~~NOTARY PUBLIC~~ ^{ARTHUR P. FORD} acknowledged to me that they executed the foregoing instrument.

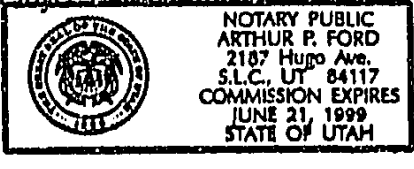


Arthur P. Ford
NOTARY PUBLIC
Residing at _____

My Commission Expires:

STATE OF UTAH)
)
) : ss.
COUNTY OF SALT LAKE)

On the 1st day of ^{April} ~~March~~, 1997, personally appeared before me Max D. Eliason and Joyce Eliason, who duly acknowledged to me that they executed the foregoing instrument.



Arthur P. Ford
NOTARY PUBLIC
Residing at _____

My Commission Expires:

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