

Practical Skills – Purchases and Sales of Homes

Supplemental Materials

Buffalo

**BUFFALO
SUPPLEMENTAL HANDOUTS**

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Modifications of this form must be clearly differentiated.

This Contract is recommended for the sale of improved or unimproved residential real estate. If used for new construction or commercial real estate, appropriate modification is required.



CAUTION: This Contract contains an Attorney Approval Contingency. Read Paragraph ATC1 carefully for the procedure to follow in order to protect your right to have this Contract reviewed and approved, conditionally approved or disapproved by your attorney.

CONTRACT

Date: _____ ("Contract Date")

1. **PARTIES.** The parties are as follows (individually a "Party" and collectively the "Parties"):

(A) **Seller:**

Address: _____

("Seller")

(Property address if blank)

(B) **Purchaser:**

Address: _____

("Purchaser")

2. **AGREEMENT.** Seller shall sell and Purchaser shall purchase the items described in Paragraphs 3(A) through 3(D) ("Property") and the items described in Paragraph 3(E)(1) - (5) as being included ("Included Items") on the terms stated in this contract, including Paragraphs ATC1 through ATC14 of the attached BAEC/BNAR approved Additional Terms and Conditions of this contract (Rev. 04/30/14) ("ATC"), as well as the Riders and attachments referenced in Paragraphs 3(B) and 16 ("Contract"). This Contract uses defined terms shown as an initial capitalized word(s), initially in quotes and parentheses or as defined in Paragraph ATC13. Unless otherwise indicated, all paragraph references are to paragraphs of this Contract. References to paragraph numbers which are preceded by letters refer to the corresponding riders listed in Paragraph 16. All defined terms and paragraph references used in this Contract shall have such meanings throughout, and in all modifications of, this Contract.

3. **PROPERTY.**

(A) **Address.** No. & Street: _____ Zip Code: _____
County of _____ ("County"), Town/City of _____, Village of: _____, NY.
Tax Map Identifier (Section-Block-Lot Number) _____

(B) **Additional Description.**

- Per attached map/survey map Per attached legal description Approximate Lot Size: _____
- Includes interest in a homeowners' association: See *Condominium/Homeowners' Association Rider*
- Condominium Unit: See *Condominium/Homeowners' Association Rider*

(C) **Current Uses/Improvements:** ___ Family dwelling with ___ car garage
 Vacant Land: See *Vacant Land Rider*. Additional uses/improvements (specify): _____

(D) **Land and Other Items.** Unless excluded in Paragraph 3(E), the following items are included:

- (1) All land; trees; buildings; improvements; oil, gas and mineral rights; and rights appurtenant to the land.
- (2) All fixtures and property attached or appurtenant to the land, buildings and improvements including: all heating, air conditioning (except window units), plumbing (including septic systems, well pumps, water pumps, sump pumps, water filtration systems and water softeners), electrical and mechanical systems (including hard wired electricity generators); plumbing fixtures; lighting fixtures (including bulbs) and landscaping (except free standing planters); matching kitchen islands; storm windows, storm doors, screens and awnings; exterior T.V. antennas and satellite dishes; garage door openers; weather vanes; window boxes; mail boxes; utility sheds; fences; underground electric pet fencing and equipment; flag poles; in-ground or garage mounted basketball backboards and poles; gas operated post-type outdoor grills; in-ground pools and related equipment; wood-burning stoves, oil and gas fired space heaters, fireplaces, fireplace inserts, screens (including free-standing screens), grates and glass enclosures; wall to wall carpeting and attached runners; linoleum; garbage disposals;

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ceiling fans, exhaust fans and hoods; security systems; intercom systems; central vacuuming systems (including all hoses and attachments); smoke detectors; carbon monoxide detectors; mirrors; window shades, curtain rods and traverse rods; all styles of window and door blinds; cabinet and wall-mounted appliances; all appliances set forth in Paragraph RPR1, if applicable; and all motors, transmitters, receivers, controls, system operation keys, remote units and all component parts.

- (3) If presently on the Property and unless free-standing, all cabinets, shelving, dishwashers, refrigerators, ovens, ranges, microwave ovens, trash compactors, humidifiers, dehumidifiers and air filtration systems.
- (4) Seller's rights in and to public and private streets, highways, alleys, driveways, easements and rights of way.
- (5) Seller's rights to receive all future rents and royalties due under any lease, agreement or tenancy.

(E) Included and Excluded Items.

- (1) Above ground pool(s) and related equipment are Included; Excluded; N/A
- (2) Hot tub(s)/spa(s) and related equipment are Included; Excluded; N/A
- (3) Outdoor play set(s) are Included; Excluded; N/A
- (4) Speakers (recessed, wall mounted and outdoor) and speaker wiring are . . Included; Excluded; N/A
- (5) The following items are included: _____

- (a) in substantially the same condition as of the date of the Property Inspection (as defined in Paragraph 9) if any, or if none is conducted, as of the Contract Date, subject to the obligations set forth in Paragraph 5 ("As-is"); or
- (b) in the condition existing at Closing (as defined in Paragraph 4(C)) ("**(a)**" if blank).
- (6) Unless specifically included in Paragraph 3(E), Paragraph 20 or a rider or addendum to this Contract, the following items are excluded: furniture; household furnishings; televisions, including brackets; and also _____

4. PURCHASE PRICE. The purchase price ("Purchase Price"), payable in U.S. Dollars as follows, is \$ _____

(A) Seller's Concession. At Closing, Seller shall credit to Purchaser the sum of ("**0**" if blank) ("Seller's Concession") \$ _____

(B) Deposit. The following deposit ("Deposit"), payable to and held in escrow by _____ ("Escrow Agent") at _____ ("Bank") \$ _____

- (1) When Purchaser signs this Contract;
- (2) Within 2 Business Days (as defined in Paragraph ATC13(C)) following:
 - (a) The Effective Date (as defined in Paragraph ATC13(D)).
 - (b) Satisfaction or waiver of the Attorney Approval Contingency (as defined in Paragraph ATC1).
 - (c) Satisfaction or waiver of the Property Inspection Contingency (as defined in Paragraph 9(A)(1)) or the Investigation Contingency (as defined in Paragraph VLR4(B)).
 - (d) The later of (b) and (c).

The Deposit and any additional deposit paid pursuant to this Contract, if applicable (collectively "Deposits"), shall be deposited by Escrow Agent with the Bank within 5 Business Days following receipt. Escrow Agent will promptly notify Seller's attorney if any Deposits are not received on time. In the event any of the Deposits are not received by Escrow Agent within 3 Business Days after payment is due, Seller may cancel this Contract at any time prior to Escrow Agent's receipt of whichever of the Deposits was past due.

(C) Adjusted Balance. Upon delivery of the deed ("Closing"), the Purchase Price less (i) the Seller's Concession, **and** (ii) the Deposits, subject to closing adjustments and credits as provided in this Contract ("Adjusted Balance").

5. CONDITION OF PROPERTY AND INCLUDED ITEMS.

- (A)** Except as otherwise provided in this Contract, until Closing, Seller shall, at Seller's expense:
 - (1) maintain the Property and Included Items in substantially the same condition as of the date of the Property Inspection, if any, or if no Property Inspection is conducted, as of the Contract Date;
 - (2) perform ordinary lawn and landscape maintenance and snow removal; **and**
 - (3) maintain all utilities in service that are required for the operation of the heating, air conditioning, plumbing, security and electric systems.
- (B)** Except as provided in the Property Condition Disclosure Statement provided by Seller before Purchaser signed this Contract ("PCDS") and in Paragraphs 5(A), 5(C), 6, 8, 13, ATC4 and, if applicable, ADR1, LBPR4 and VLR2, Seller makes no representations, warranties or disclosures as to the condition of the Property and Included Items.
- (C)** Subject to (i) any rights of Purchaser under Paragraphs 9, 12(D) and LBPR5(B), (ii) Seller's obligations under Paragraphs 5(A), 5(D), 12 and 13, and (iii) Seller's obligation to complete all repairs agreed to in writing, Purchaser shall accept the Property in substantially the same condition (a) as of the date of the Property Inspection, if any, or

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if no Property Inspection is conducted, as of the Contract Date, and (b) as disclosed in the PCDS, if any, and shall accept the Included Items as set forth in Paragraph 3(E)(5).

(D) The Property shall be in "broom clean" condition and free of debris on the date of Closing.

6. SELLER'S DISCLOSURES. Seller makes the following disclosures to the best of Seller's knowledge:

- (A) Title. Seller has title to the Property, subject to the provisions of Paragraph ATC5, and Seller owns the Included Items.
(B) Agricultural District. The Property is located partially or wholly within an agricultural district.
(C) Utility Surcharge. The Property is subject to a utility (e.g. gas, electricity, water) surcharge.
(D) Water Well. The Property has a private water well and/or other non-public water supply.
(E) Public Water. The Property is connected to a public water supply.
(F) Septic System. (1) The Property has a private septic system approved for ___ bedrooms.
(G) Public Sewers. The Property is connected to public sanitary sewers.
(H) Heating Oil/Propane. The Property is serviced by heating oil and/or propane.
(I) Gas and Oil Wells. The Property has an uncapped natural gas and/or oil well.
(J) Oil/Gas/Mineral Leases. Seller has received, is receiving or is entitled to receive rents, royalties or other payments and/or free gas under any oil or gas or mineral lease affecting the Property.
(K) Flood Zone. The Property is currently located in a special flood hazard zone.
(L) Radon. The Property has been tested for radon.
(M) Special Tax District. The Property is located in a special tax district having a separate tax bill.
(N) Tax Exemption. (1) The Property tax bill(s) reflect(s) a tax exemption (e.g. STAR, veteran's).
(O) Special Tax Assessments. The Property is subject to assessments for special or local improvements.
(P) Vehicular Access. Vehicular access to the Property is currently by way of:
(Q) Shared Driveway. The Property is serviced by a shared driveway.
(R) Court Orders. Seller is currently subject to a court order that prohibits the sale or transfer of the Property without the consent of another person or further court order.
(S) Bankruptcy. Seller is currently in bankruptcy.
(T) Foreclosure. The Property is currently the subject of a foreclosure proceeding or a mortgage encumbering the Property that is in arrears in excess of 60 days.
(U) Sufficient Funds. Including the proceeds from the sale of the Property, Seller has sufficient funds to close this transaction and pay all of Seller's closing costs and expenses.
(V) Code Violations. Notice from a governmental authority has been issued advising that the Property and/or Current Uses/Improvements violate applicable building codes and/or zoning ordinances.
(W) FIRPTA Certification. Seller is a non-resident alien, foreign corporation, foreign partnership, foreign trust or foreign estate.

7. CLOSING FUNDS.

(A) Purchaser's Representations. Purchaser represents that except for the proceeds of any financing selected in Paragraph 10 or as otherwise accepted by Purchaser and any Seller's Concession:

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Form for Purchaser Initials: a 2x4 grid of boxes.



- (1) Purchaser is in **actual possession** of sufficient money in U.S. dollars **on deposit** with a federally insured bank, trust company, savings and loan association or credit union ("Financial Institution") to close this transaction. **Yes** **No**
- (2) In order to close this transaction, Purchaser does, or Purchaser's lender may, require:
 - (a) the closing of the sale of any other real estate or the discharge of any mortgage for which Purchaser is liable **Yes** **No**
 - (b) the receipt of a gift of funds **Yes** **No**
- (B) **Sale Contingency.** This Contract is contingent upon the sale of other real estate as provided in the *Sale Contingency Rider* ("Sale Contingency") **Yes** **No**
- (C) **Closing Contingency.** This Contract is contingent upon the closing of the sale of Purchaser's real estate located at _____ ("Purchaser's Property"). **Yes** **No**
 If yes, either Party may cancel this Contract after any material breach, termination or cancellation of the contract for Purchaser's Property or upon proof that the closing of the sale of Purchaser's Property has not occurred within 10 Business Days after the Contract Closing Date (as defined in Paragraph 14(A)). Purchaser shall notify Seller within 3 Business Days after any material breach, termination or cancellation of the contract for Purchaser's Property.

8. **LEAD-BASED PAINT DISCLOSURE.** Seller represents that: *Choose either (A) or (B) below.*
- (A) **Pre-1978 Construction.** The dwelling(s) on the Property was/were or may have been built prior to 1978. A *Lead Based Paint Rider* **must** be attached to this Contract.
 - (B) **Post-1977 Construction.** The dwelling(s) on the Property was/were built in 1978 or later.

9. **INSPECTION OF PROPERTY AND INCLUDED ITEMS.** *Choose either (A) or (B) below. ("A" if blank).*

				CAUTION: New York law requires that any paid property inspector be properly licensed by the State. The use of a non-licensed inspector or election not to have a property inspection conducted shall be at Purchaser's own risk.
Purchaser Initials				

- (A) **Property Inspection to be conducted.**
 - (1) **The Inspection.** Purchaser shall have the right to have the Property and Included Items inspected and/or tested by inspector(s) chosen and paid for by Purchaser ("Property Inspection") **and** any notice of unsatisfactory results pursuant to Paragraph 9(A)(4) shall be completed within _____ ("**7**" if blank) days following the later of (i) satisfaction or waiver of the Attorney Approval Contingency, or (ii) if all applicable utilities are not in service on the Effective Date, the date Purchaser or Purchaser's attorney receives a notice given by Seller that all applicable utilities are in service ("Inspection Period"). The scope of the Property Inspection shall be determined by Purchaser, but shall not, without the consent of Seller, result in damage to the Property or Included Items. Seller will cooperate with Purchaser's reasonable requests, but need not consent to any damage to the Property or Included Items. The results of the Property Inspection must be satisfactory to Purchaser ("Property Inspection Contingency").
 - (2) **Radon Notice.** Radon is a colorless, odorless, tasteless gas that can seep into homes through cracks and openings in a home's foundation. Inhalation of radon gas is associated with increased risk of lung cancer. Testing for the presence of radon in residential real estate prior to purchase is advisable.
 - (3) **Radon Test.** The Property Inspection will include a radon test ("**Yes**" if blank). **Yes** **No**
 - (4) **Notice of Results and Right to Cancel Contract.** If the results of the Property Inspection are not satisfactory to Purchaser for any reason whatsoever, **and** if notice of the unsatisfactory results of the Property Inspection **is received by Seller or Seller's attorney on or before the expiration of the Inspection Period**, either Party may cancel this Contract. The results need not be disclosed. If the notice under this Paragraph 9(A)(4) is not timely received by Seller or Seller's attorney, the Property Inspection Contingency is deemed waived by Purchaser.
- (B) **No Property Inspection.** Except for the Final Inspection (as defined in Paragraph ATC7), Purchaser elects not to have a Property Inspection conducted. This election shall not be deemed to waive or expand any other rights Purchaser may have under this Contract or at law.

10. **FINANCING.** *Choose all that apply below ("A" if blank).*

- (A) **No Financing.** Purchaser will close this transaction without financing.
- (B) **New Loan(s).**
 - (1) **Application.** Purchaser shall promptly and in good faith, but in no case later than _____ ("**5**" if blank) days after satisfaction or waiver of the Attorney Approval Contingency, Property Inspection

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Contingency, Lead-Based Paint Inspection Contingency (as defined in Paragraph LBPR5(B)), Sale Contingency and Investigation Contingency, if applicable, make application for and diligently and in good faith pursue and accept a Loan Commitment (as defined in Paragraph 10(B)(3)) for one or more of the following loans (NOTE: More than one loan type may be selected, but Purchaser need not apply for all loan types selected):

- (a) **First Loan:**
 - (i) **Loan Amount** is not to exceed \$ _____; or _____ % of the Purchase Price, plus any financed Private Mortgage Insurance, Mortgage Insurance Premium or VA Funding Fee ("Loan Amount").
 - (ii) **Loan Type** is: Conventional FHA VA (See *FHA/VA Option Clause*) SONYMA; Other: _____ ("**Conventional**" if all blank).
 - (iii) **Loan Term** is: 30 year; 20 year; 15 year; _____ year ("**30 year**" if all blank).
 - (iv) **Interest Rate** is: (Reference to "prevailing" rate is not permissible)
 - a fixed rate not to exceed _____ % per year for a fixed rate loan, or;
 - an initial interest rate not to exceed _____ % for an adjustable rate loan.
 - (v) **Loan Discount Fees** are not to exceed _____ ("**0**" if blank) % of the Loan Amount.
- (b) **Second Loan/Grant** is a _____ year *Fixed Rate* *Adjustable Rate* loan/grant in an amount not to exceed \$ _____; or _____ % of the Purchase Price with an interest rate (initial or fixed) not to exceed _____ %.

(2) **Interest Rate Protection.** Provided Purchaser complies with the provisions of Paragraph 10(B)(1), Purchaser may cancel this Contract if, at the time of loan application, Purchaser is not able to lock in at interest rates and loan discount fees at or below the rates and fees set forth in Paragraph 10(B)(1). If an interest rate is not set forth in Paragraph 10(B)(1) or, if Purchaser elects not to lock in an interest rate at the time of application (i.e. to "float"), Purchaser shall be obligated to accept a Loan Commitment for the applicable loan at any available interest rate with any required loan discount fees. Purchaser must lock in an interest rate no later than 10 days before the Contract Closing Date.

(3) **Commitment.** The written approval of Purchaser's application for a loan must have commitment and interest rate expiration dates after the Contract Closing Date **and must not be conditioned upon:** initial underwriting approval by the lender, verification of credit, receipt of an appraisal, payment of debt (other than mortgage(s) encumbering Purchaser's Property if Paragraph 7(A)(2)(a) is answered "Yes"), verification of funds or initial verification of employment ("Loan Commitment"). Purchaser shall deliver to Seller's attorney a **complete** copy of the Loan Commitment and notice of its acceptance by Purchaser within 3 Business Days after Purchaser's acceptance of a Loan Commitment. If a Loan Commitment within the terms set forth in Paragraphs 10(B)(1) through 10(B)(2) is not issued to and accepted by Purchaser by (choose either (a) or (b) below ("**b**") if both (a) and (b) blank)

- (a) _____ [insert date]; or
- (b) _____ ("**45**" if blank) days after the later of (1) the Effective Date; or (2) satisfaction or waiver of the latest of any applicable (i) Sale Contingency, (ii) Investigation Contingency, or (iii) _____

("Loan Commitment Due Date"), either Party may cancel this Contract at any time prior to Purchaser's acceptance of a Loan Commitment on terms the same as or different than those set forth in Paragraphs 10(B)(1) through 10(B)(2). Either Party may cancel this Contract if a Loan Commitment is granted but later cancelled without fault on the part of Purchaser. Purchaser shall promptly notify Seller of any Loan Commitment cancellation.

- (4) **Cooperation.**
 - (a) Seller shall promptly and in good faith cooperate with reasonable requests by Purchaser's lender(s) to provide access to the Property and Included Items and to execute documents which, except for the FHA/VA Option Clause, do not modify the terms of this Contract.
 - (b) Purchaser hereby authorizes and agrees to execute any documents required to authorize Purchaser's lender(s) to deliver a complete copy of each Loan Commitment, without any account numbers shown, to Seller's attorney and the Brokers (as defined in Paragraph 19).

- (C) **Loan Assumption.** A loan is being assumed (See *Loan Assumption Rider*).
- (D) **Seller Financing.** Seller is holding a purchase money mortgage (See *Seller Financing Rider*).

11. **STATUS OF TITLE.** Purchaser will accept title to the Property and Included Items subject to the encumbrances set forth in Paragraph ATC5 and: _____ ("**Nothing further**" if blank).

12. **IMPROVEMENTS.**
(A) **Intended Uses and Improvements.** **CAUTION: This Property may have easements, rights of way and restrictions which may affect intended uses of or improvements to the Property. Purchaser may be acquiring**

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the Property subject to these encumbrances unless intended uses or improvements, different from the current uses and improvements as set forth in Paragraph 3(C) ("Current Uses/Improvements"), are listed below.

Purchaser intends to use the Property for a one two three four -family dwelling or other _____ ("Intended Uses").

(1) Purchaser intends to make the following specific improvements on or modifications to the Property or make the following specific use of the Property (for example, erection of fence, swimming pool or garage, parking of recreational vehicles): _____ ("Intended Improvements").

(2) If any Intended Uses or Intended Improvements, different from the Current Uses/Improvements, are listed in subparagraphs (1) and/or (2) above, within 10 Business Days after the Effective Date, Seller will provide Purchaser with a copy of Seller's existing survey map and of all restrictions, easements and rights of way affecting the Property as is or should be disclosed in the Search and/or Survey. If Purchaser finds that any restriction, easement or right of way is inconsistent with any of the above-stated Intended Uses or Intended Improvements, then Purchaser may cancel this Contract within 7 Business Days after receipt of (i) a copy of Seller's existing survey map or, if not available, the Survey, and (ii) a copy of all restrictions, easements and rights of way required to be provided by Seller under this Paragraph 12(A)(3).

(B) Certificates/Approvals. Seller shall obtain certificates/approvals valid through the date of Closing issued by appropriate governmental authorities evidencing compliance with all applicable laws, ordinances, regulations and codes relating to the Current Uses/Improvements and as disclosed in this Contract (excluding the Intended Uses and Intended Improvements which are different from the Current Uses/Improvements) and/or required for the transfer of the Property (for example: certificate of occupancy, sump pump certificate and approvals of non-public sewage disposal and water supply) ("Certificates/Approvals"). However, Seller shall have no obligation to supply a certificate of occupancy or certificate of compliance for occupancy of the Property if the Property has been occupied solely as a one or two family dwelling.

(C) Order and Delivery.

(1) **Order.** Certificates/Approvals not already in Seller's possession shall be ordered, all applicable testing and inspections shall be requested, and all applicable application fees shall be paid by Seller no later than 7 Business Days after the later of (i) the Effective Date, and (ii) the satisfaction or waiver of the Attorney Approval Contingency, Property Inspection Contingency, Lead-Based Paint Inspection Contingency, Sale Contingency and Investigation Contingency, if applicable. Any reinspection or additional fees shall be paid promptly by Seller.

(2) **Delivery.** Seller shall deliver to Purchaser's attorney a copy of all Certificates/Approvals at least 5 Business Days prior to the Contract Closing Date, except if delayed pursuant to Paragraph 12(D). The originals of all Certificates/Approvals obtained shall be delivered to Purchaser at Closing.

(D) Objections. If Purchaser gives Seller notice of valid objection to the legal status or legal use of any of the structures or other improvements located on the Property ("Condition Defects"), or if Seller receives notification from the applicable governmental authority that there is any problem which needs to be corrected before any one or more of the Certificates/Approvals can be obtained ("Corrective Faults"), Seller shall, at Seller's expense, correct the Condition Defects and Corrective Faults, and have all necessary governmental inspections completed, prior to the Contract Closing Date. However, Seller may, within 10 Business Days following receipt by Seller or Seller's attorney of a notice of Condition Defects, a notice that Corrective Faults must be corrected, and/or a notice that an inspection cannot be conducted due to weather conditions, governmental delays or governmental policies, notify Purchaser that Seller will not (i) correct the Condition Defects and/or Corrective Faults, and/or (ii) obtain one or more Certificates/Approvals (a "Non-Correction Notice") provided Seller has timely complied with Seller's obligations under Paragraph 12(C)(1), if applicable. If, within 10 Business Days following receipt by Purchaser or Purchaser's attorney of a Non-Correction Notice, Purchaser does not elect to accept the Property and Included Items subject to the Condition Defects and Corrective Faults and without Certificates/Approvals which cannot be obtained, either Party may cancel this Contract. Nothing in this Paragraph 12 is intended to affect the rights of Seller or Purchaser under General Obligations Law Section 5-1311, or as otherwise provided under this Contract.

13. KEYS. At Closing, unless the Parties have made other prior satisfactory arrangements, Seller shall deliver to Purchaser all keys, security and access codes, and remote control openers (which must be in working order) for the Property, except as follows: _____ (**"no exclusions" if blank**).

14. CLOSING.

(A) Closing Date. Closing shall be at the County Clerk's Office on the date set forth below or, if that date is not a Business Day, on the next Business Day. (**"(2)" if both (1) and (2) blank**). **Time is not of the essence.**

- (1) _____ [insert date], or
- (2) _____ (**"60" if blank**) days after the later of (a) the Effective Date; or (b) satisfaction or waiver of the latest of any applicable (i) Sale Contingency, (ii) Investigation Contingency, or (iii) _____

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(the "Contract Closing Date"), or at such other time and place as the Parties mutually agree.

(B) **Time of Essence Notice.** Either Party (the "Declaring Party") may, at any time after the Contract Closing Date, notify the other Party that time is of the essence, which notice shall set a specific time for Closing on a Business Day that is on or after the 7th Business Day following receipt of the notice by the other Party or the other Party's attorney, provided (i) the Declaring Party has completed each obligation required of the Declaring Party by this Contract to be completed prior to Closing (a "Pre-Closing Obligation"), (ii) the number of days specified in this Contract for the completion of a Pre-Closing Obligation prior to Closing, if applicable, has or will have elapsed following actual completion of the Pre-Closing Obligation, (iii) the number of days available under this Contract to the other Party following the completion of a Pre-Closing Obligation, if applicable, has or will have elapsed following actual completion of the Pre-Closing Obligation, and (iv) the contingencies in this Contract for the benefit of the Declaring Party have been satisfied or waived, or, absent a default by the other Party, will or could be satisfied at Closing.

15. TAXES, ADJUSTMENTS AND CREDITS.

- (A) **Special Tax Assessments.** Purchaser will accept title to the Property subject to, and will pay, all Special Tax Assessments that may be payable in installments not yet due and payable as of Closing. Any Special Tax Assessment payable in installments may be so paid on the installment due date at the election of Seller.
- (B) **Water Charges and Delinquent Taxes.** Seller shall pay all water charges until Closing and all prior fiscal years' taxes and tax assessments, including interest and penalties.
- (C) **Items To Be Adjusted.** There shall be prorated and adjusted, as of 12:00 midnight prior to the date of Closing: rents; royalties; propane; fuel oil; mortgage interest for assumed mortgages; all current fiscal years' taxes, assessments and installments of amounts appearing on current tax bills computed on a fiscal year basis; Special Tax Assessments; flat rate water charges; sewer charges; user fees; license and/or registration fees; and the following items: _____. For adjustment purposes, all rents and royalties due as of the date of adjustment will be considered paid to Seller. If Closing occurs before a new tax rate is fixed, the apportionment of taxes shall be made on the basis of the most recent tax rate applied to the latest assessed valuation and the provisions of Paragraph 15(E) shall not apply.
- (D) **Items To Be Credited.** There shall be assigned and/or credited to the appropriate Party at Closing: security deposits and any accrued interest thereon; assumed mortgage escrows; the principal balance of and any accrued interest on any assumed mortgage; the principal balance of and any interim interest on any mortgage held by Seller; all penalties and interest on current fiscal years' taxes, assessments and Special Tax Assessments due as of Closing; increases in taxes due to an exemption termination, removal or revocation for the period from the date of the loss of the exemption to the date of Closing; and any other credits provided for in this Contract.
- (E) **Post Closing Adjustment.** Any errors and/or omissions in the computations used for Closing of adjustments, credits and/or taxes, including any increases due to an exemption termination, removal or revocation, which exceed \$100.00 in the aggregate, shall be corrected upon discovery and paid within a reasonable period of time following a demand for payment.
- (F) **Loans.** All loans which appear on any tax and/or utility bill(s) shall be paid in full by Seller prior to or at Closing.

16. RIDERS AND ATTACHMENTS. This Contract includes the following Riders and attachments marked below:

- Lead-Based Paint Rider ("LBPR") Rented Property Rider ("RPR") Sale Contingency Rider ("SCR")
- Vacant Land Rider ("VLR") Loan Assumption Rider ("LAR") Seller Financing Rider ("SFR")
- Condominium/Homeowners' Association Rider ("CHAR") Property Condition Disclosure Statement ("PCDS")
- FHA/VA Option Clause Agricultural Disclosure Rider ("ADR")
- Other: _____ (**"None" if blank**)

17. SIGNATURES. This Contract shall not become binding unless all Parties sign it, initial it (where appropriate) and deliver it so that it is received by all Parties or their respective attorneys no later than 5:00 p.m. on _____.
(If blank, this paragraph is not applicable).

18. ATTACHMENT OF ADDITIONAL TERMS AND CONDITIONS.

(A) **Receipt and Release.** By initialing below, the Parties acknowledge having received and reviewed the attached ATC. ***This Contract shall be void if all Parties do not acknowledge below that they received the ATC.***

Seller Initials			

Purchaser Initials			

(B) **Changes.** Changes have have not (**"have not" if blank**) been made to the ATC. If "have not", any changes made to the ATC other than in Paragraphs 1 through 20 or in any Rider or Addendum shall be ineffective.

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Seller Initials

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Purchaser Initials



19. BROKERS. The brokers listed below (individually a "Broker" and collectively the "Brokers") are:

LISTING REAL ESTATE BROKER

SELLING REAL ESTATE BROKER

 Broker Agent _____

 Address _____

 Office Phone Fax _____

 Other Phone E-mail _____

 Broker Agent _____

 Address _____

 Office Phone Fax _____

 Other Phone E-mail _____

20. OTHER TERMS. (If blank, this paragraph is not applicable.) In the event of a conflict between the provisions of this paragraph and the provisions of any other paragraph of this Contract, the provisions of this paragraph shall control.

CAUTION: Any Property Condition Disclosure Statement provided by Seller must be delivered to Purchaser and a copy attached to this Contract before Purchaser signs this Contract.

 Seller _____ Date _____

 Seller _____ Date _____

 Seller _____ Date _____

 Seller _____ Date _____

 Signature of authorized agent of Escrow Agent _____ Date _____
 Name of authorized agent: _____

 Purchaser _____ Date _____

 Purchaser _____ Date _____

 Purchaser _____ Date _____

 Purchaser _____ Date _____

 Deposit received: Yes No
 [Must be signed even if Deposit has not been received.]

SELLER'S ATTORNEY

PURCHASER'S ATTORNEY

 Firm Attorney _____

 Address _____

 Telephone Fax _____

 E-mail address _____

 Firm Attorney _____

 Address _____

 Telephone Fax _____

 E-mail address _____

ADDITIONAL TERMS AND CONDITIONS

ATC1. ATTORNEY APPROVAL CONTINGENCY. CAUTION: The deletion or modification of Paragraph ATC1(A) or Paragraph ATC1(B), unless such modification extends the Attorney Approval Period or Addendum Approval Period, shall result in the automatic withdrawal of any bar association approval of this form.

- (A) Contract Approval.** This Contract is contingent upon its approval by the Parties' respective attorneys ("Attorney Approval Contingency") within 3 Business Days following receipt by each Party's attorney of a complete copy of the fully executed Contract ("Approval Period"). Within 2 Business Days following the Effective Date, the Parties shall cause a complete copy of this Contract to be delivered to their respective attorneys if one has not already been delivered. In any event, the Approval Period shall commence no later than 2 Business Days following the Effective Date. If either Party's attorney disapproves this Contract before the end of the Approval Period, this Contract is deemed cancelled. The reason for the disapproval need not be disclosed. If either Party's attorney conditionally approves this Contract before the end of the Approval Period, either Party may cancel this Contract at any time prior to unconditional approval of this Contract by the attorneys for both Parties. If there is no disapproval, conditional approval or approval of this Contract by an attorney on behalf of a Party by the end of the Approval Period, this Attorney Approval Contingency is deemed waived by that Party. Disapproval, conditional approval or approval must be in writing and must be received by the attorney representing the other Party, if known, or if not known, the other Party, before the expiration of the Approval Period. A copy of the approval or disapproval **should** be faxed or mailed to the Brokers.
- (B) Addendum Approval.** Any modification to this Contract ("Addendum") is contingent upon its approval by the Parties' respective attorneys ("Addendum Attorney Approval Contingency") within 3 Business Days following receipt by each Party's attorney of a complete copy of the fully executed Addendum ("Addendum Approval Period"). Within 2 Business Days following the complete execution, initialing of changes and delivery to the other Party or the other Party's attorney of a duplicate original of the Addendum by the Party last to sign it or to initial changes to it (the "Addendum Effective Date"), the Parties shall cause a complete copy of the Addendum to be delivered to their respective attorneys, if one has not already been delivered. In any event, the Addendum Approval Period shall commence no later than 2 Business Days following the Addendum Effective Date. If either Party's attorney disapproves the Addendum before the end of the Addendum Approval Period, the Addendum is deemed cancelled (the reason for disapproval need not be disclosed), but this Contract shall remain in full force and effect, except (i) if either Party's attorney conditionally approves or disapproves an Addendum incorporating changes to this Contract upon which either Party's attorney's approval was conditioned, the attorney's conditional approval shall not be deemed satisfied or waived by the execution of the Addendum by all Parties; and (ii) if either Party's attorney disapproves a Property Inspection Notice and Addendum ("PINA") in which either PINA2(C) or PINA2(D) is selected, either Party may cancel this Contract. If, following unconditional approval of this Contract pursuant to ATC1(A), either Party's attorney conditionally approves an Addendum before the end of the Addendum Approval Period, either Party may cancel the Addendum at any time prior to unconditional approval of the Addendum by the attorneys for both Parties, but this Contract shall remain in full force and effect. If there is no disapproval, conditional approval or approval of the Addendum by an attorney on behalf of a Party by the end of the Addendum Approval Period, the Addendum Approval Contingency is deemed waived by that Party. Disapproval, conditional approval or approval must be in writing and must be received by the attorney representing the other Party, if known, or if not known, the other Party, before the expiration of the Addendum Approval Period. A copy of the approval or disapproval **should** be faxed or mailed to the Brokers.

ATC2. SEARCH AND SURVEY.

- (A) Search.** Seller shall provide a tax and title search which covers the Property only, fully guaranteed by a title insurance corporation licensed under Article 64 of the Insurance Law ("Search"). Unless the standards adopted by the bar association applicable for the Property locality ("Bar Association") provide otherwise, the first set-out of the Search shall be the first recorded source of title in the County Clerk's Office or a deed to an apparent owner recorded prior to 1920. The last continuation of the Search shall be dated after the Contract Date. If the description certified to in the Search contains references to boundary or other prior instruments, the Search shall show, for information purposes, the descriptions contained in the instruments. Seller shall also provide local tax certificates where not covered by the Search.
- (B) Survey.** Seller shall provide a survey map of the Property prepared according to the Bar Association standards or, if none, BAEC standards, from a survey of the Property performed after the Contract Date by a professional who is licensed or otherwise authorized under the New York Education Law to practice land surveying ("Survey"). If the Survey includes a certification or statement indicating for whom it was prepared the Survey must, at Seller's expense, be certified to Purchaser, Purchaser's lender(s), Purchaser's attorney and the title insurance agent(s) and company(ies) providing any title insurance in connection with this transaction.
- (C) Order and Delivery.** Seller shall order the Search and Survey within 5 Business Days after the satisfaction or waiver of the Attorney Approval Contingency, Property Inspection Contingency, Lead-Based Paint Inspection

Contingency, Sale Contingency and Investigation Contingency, if applicable. Seller shall deliver the Search, local tax certificates and the Survey to Purchaser's attorney not less than 15 Business Days before the Contract Closing Date.

- (D) Return on Cancellation.** In the event this Contract is cancelled pursuant to any of its terms, Purchaser shall have the Search and Survey returned to Seller or Seller's attorney within 7 Business Days after receipt of a notice of cancellation.

ATC3. COSTS. Except as otherwise provided, in addition to the costs set forth elsewhere in this Contract, (i) Seller shall pay for the Search to the date of Closing and for the Survey, transfer tax, filing fee for transfer tax forms, recording fees for any documentation required to cure any Title Defects (as defined in Paragraph ATC5(B)), the special additional mortgage tax, all costs to be paid to the County Clerk to enable the deeds, in excess of one, to be recorded, any estimated New York State income tax due at Closing, and any additional transfer tax imposed under Tax Law Section 1402-a if Purchaser is exempt from paying such tax; and (ii) Purchaser shall pay the mortgage tax, fees for recording deed and mortgage(s), filing fee for Real Property Transfer Report, fee for certification of the Survey (if requested by Purchaser or Purchaser's attorney), mortgage holder's assumption and release of liability fees, any additional transfer tax imposed under Tax Law Section 1402-a, unless Purchaser is exempt from paying such tax, and, except as otherwise provided in this Contract, all fees, costs and other charges imposed or required by Purchaser's lender.

ATC4. RIGHT TO FARM DISCLOSURE. It is or may be the policy of the County to conserve, protect and encourage the development and improvement of agricultural land for the production of food and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective residents that farming activities occur within the County. Such farming activities may include, but not be limited to, activities that cause noise, dust, fumes, odors, smoke, insects, operation of machinery during any hour of the day or evening, storage and disposal of plant and animal waste products, and the application of fertilizers, soil amendments, and pesticides by ground or aerial spraying or other method. Property owners and residents of the County should be aware that farmers have the right to undertake generally accepted practices and one should expect such conditions as a normal and necessary aspect of living in an agricultural area.

ATC5. STATUS OF TITLE.

- (A) Quality of Title.** At Closing, Seller shall convey to Purchaser good and marketable title to the Property and Included Items in fee simple, free and clear of all liens and encumbrances, except as stated in this Contract. Purchaser will accept title to the Property subject to (i) restrictions of record, provided they do not conflict with the Current Uses/Improvements, Intended Uses or Intended Improvements and have not been violated, unless their enforcement is barred by law; (ii) easements and rights-of-way of record for water lines, sanitary sewer lines, drainage, gas pipelines, electrical lines, media and communication lines, provided they are or may be used to service the Property and provided the Current Uses/Improvements, Intended Uses or Intended Improvements are not or will not be within the easements or rights-of-way areas; and (iii) the encumbrances itemized in Paragraph 11, if any.
- (B) Title Objections.** Purchaser's attorney shall notify Seller's attorney of all defects, liens and encumbrances to Seller's title to the Property to which Purchaser objects and which Purchaser is not required to accept under this Contract ("Title Defects"). Seller shall in good faith attempt to cure the Title Defects. Seller shall have the later of (i) 10 Business Days after Seller's attorney receives notice of the Title Defects, or (ii) the Contract Closing Date in which to cure the Title Defects. Purchaser shall accept title to the Property once the Title Defects are cured. If Seller cannot cure the Title Defects within the time period set forth above, but either Party can obtain an owner's title insurance policy reasonably and adequately insuring the uncured Title Defects in the amount of the Purchase Price naming Purchaser as insured, including all endorsements necessary to cover the Title Defects, a market value rider (if available) and a covenant by the issuing company to reissue the policy containing the same affirmative coverages ("Owner's Policy"), at standard rates and at no additional cost or obligation to Purchaser, then Purchaser shall accept the Owner's Policy and title to the Property. Seller shall in good faith comply with all reasonable requests of the title insurer to enable it to insure over the Title Defects, including all requirements relating to Title Defects occurring or arising during Seller's ownership of the Property.
- (C) Title Insurance.** Purchaser's attorney shall order any title insurance policy and any required endorsement insuring Purchaser's lender ("Loan Policy"). If an Owner's Policy is required under Paragraph ATC5(B), the Owner's Policy shall be issued by the company chosen by Seller's attorney, provided the premium for the Owner's Policy without a simultaneous Loan Policy is not greater than that for which Seller is responsible under Paragraph ATC5(D). Otherwise, the Owner's Policy shall be issued by the company issuing the Loan Policy, if available. If no Loan Policy is required or if an Owner's Policy is not available from the company issuing the Loan Policy, the Owner's Policy shall be issued by (i) the company chosen by Seller's attorney, or (ii) the company chosen by Purchaser's attorney if Seller's attorney does not obtain the Owner's Policy.
- (D) Title Insurance Premiums.** If Seller is required to provide an Owner's Policy under Paragraph ATC5(B) or CHAR3(B)(1)(a), if applicable, and if no Loan Policy is required or obtained, or if the Owner's Policy is not available from the company issuing the Loan Policy, Seller shall pay the premium for the Owner's Policy at the full standard rate. If a Loan Policy is required or obtained and if an Owner's Policy is required and is available

from the company issuing the Loan Policy, Purchaser shall pay the full premium for the Loan Policy, and Seller shall pay an amount equal to the combined premium for the Owner's Policy and simultaneous Loan Policy, less the premium for the Loan Policy at the standard rate.

- (E) **Contract Termination.** If Seller cannot cure all Title Defects within the time period provided in Paragraph ATC5(B) and if an Owner's Policy insuring over the Title Defects cannot be obtained in accordance with Paragraph ATC5(B), (i) Purchaser may cancel this Contract, (ii) Purchaser may elect to accept title as Seller can convey, or (iii) Seller may cancel this Contract if Purchaser fails to elect to accept such title within 3 Business Days after Purchaser receives a demand by Seller to accept title to the Property.
- (F) **Title Examination Standards.** The standards for title examination of the Bar Association applicable for the Property locality or, if none, BAEC standards, shall apply to this Contract.

ATC6. DEED. At Closing, Seller shall deliver to Purchaser all documentation, in recordable form where required, reasonably necessary for Seller to comply with this Contract including (i) a warranty deed with lien covenant if Seller is a natural person, (ii) a fiduciary deed with lien covenant if Seller is a fiduciary, (iii) a bargain and sale deed with lien covenant and covenants against grantor's acts if Seller is not a natural person, and/or (iv) a bargain and sale deed with lien covenant and covenant against grantor's acts for so much of the Property as may be affected by a Title Defect which is accepted by Purchaser or which will be insured over by an Owner's Policy.

ATC7. INSPECTION AND UTILITIES. Before Closing (but after a Loan Commitment has been accepted) and upon reasonable notice to Seller, Purchaser shall have the right to a single final inspection of the Property and Included Items ("Final Inspection"). Seller shall arrange for final utility readings and Purchaser shall arrange for the transfer of utility services to Purchaser effective as of the date of Closing.

ATC8. POSSESSION. Subject only to the tenancies listed on the *Rented Property Rider*, if applicable, at Closing, Purchaser shall have possession of all of the Property and Included Items and the Property shall be vacant.

ATC9. PAYMENT OF ADJUSTED BALANCE.

- (A) **Acceptable Funds.** The Adjusted Balance shall be paid by:
- (1) Cash, but not in excess of \$500.00;
 - (2) Certified check(s) drawn on, or bank draft(s) or official check(s) issued by a New York State branch of any Financial Institution, with the original payee as Seller or as Seller's attorney may otherwise direct upon not less than 2 Business Days notice to Purchaser's attorney.
 - (3) As otherwise agreed to in writing by Seller or Seller's attorney.
- (B) **Payment Accepted Subject to Collection.** Any non-cash payment is accepted subject to collection.

ATC10. CANCELLATION. Any cancellation made under any Paragraph of this Contract, other than Paragraph ATC1(A), shall be made by notice by the cancelling Party to the other Party ("Cancellation Notice"). The Cancellation Notice must state the reason for the cancellation and a copy of the Cancellation Notice must be delivered to the Escrow Agent and **should** be delivered to the Brokers. If the cancelling Party delivers a Cancellation Notice to the other Party and Escrow Agent and if a notice by the other Party objecting to the cancellation of this Contract ("Cancellation Objection Notice") is not received by the cancelling Party and Escrow Agent within 10 days following their receipt of a Cancellation Notice, or if this Contract is cancelled under Paragraph ATC1(A), this Contract shall automatically terminate upon that event, the Deposits shall be returned to Purchaser and neither Party nor the Brokers shall have any rights or obligations arising out of this Contract (other than obligations under this Contract that are intended to survive any cancellation or termination).

ATC11. ESCROW.

- (A) **Trust Funds.** Escrow Agent's sole duties and responsibilities shall be as a stakeholder only to hold the Deposits in trust for the benefit of the Parties and disburse the Deposits following Closing or cancellation in accordance with this Contract notwithstanding that Escrow Agent may act as attorney or real estate broker for either Party in this transaction. At no time shall the Deposits be the property of Escrow Agent and at no time shall Escrow Agent earn any interest on the Deposits.
- (B) **Brokers' Commissions.** The Brokers brought about this sale and, if this Contract is not validly cancelled by either Party, the Parties shall pay the entire compensation to the Brokers in accordance with their respective written agreements unless the Closing does not take place through no fault of the Party owing the compensation ("Commissions"). However, if no Brokers are identified in this Contract, each Party represents that such Party has not dealt with any person who brought about this sale. Each Party shall indemnify, defend and hold the other harmless from and against any and all causes of action, claims, damages, judgments, awards, expenses and fees (including reasonable attorneys' fees and court costs) in connection with any claim for compensation by any person for having brought about this sale.
- (C) **Closing Disbursements.** If Escrow Agent has signed this Contract, Seller authorizes Escrow Agent to, and Escrow Agent shall, apply the Deposits at Closing, first to the payment of the Commissions owed by Seller, then to payment of Seller's costs as set forth in this Contract. The balance of the Deposits, if any, shall be paid to Seller or any other payee identified by Seller or Seller's attorney. In the event the Deposits are not sufficient to

pay the Commissions owed by Seller, Seller authorizes Seller's attorney to, and Seller's attorney shall, pay the balance of the Commissions owed by Seller from the net proceeds due Seller at Closing. In the event Escrow Agent is the Listing Real Estate Broker, Escrow Agent will pay any Commissions due to the Selling Real Estate Broker out of Escrow Agent's escrow account within 7 Business Days after receipt of final payment from Seller.

- (D) Return of Deposits.** Except as otherwise provided in this Contract, Escrow Agent, in its capacity, is not subject to the unilateral direction of any Party with respect to the return of Deposits after cancellation. If this Contract is cancelled under Paragraph ATC1(A), Escrow Agent shall return the Deposits to Purchaser within 5 Business Days following Escrow Agent's receipt of a notice of disapproval or cancellation. If this Contract is cancelled under any other Paragraph in accordance with Paragraph ATC10, Escrow Agent shall return the Deposits to Purchaser within 14 days following Escrow Agent's receipt of a Cancellation Notice provided Escrow Agent did not timely receive a Cancellation Objection Notice. In all other cases, the Deposits shall be distributed by Escrow Agent to Seller or Purchaser as the case may be within 5 Business Days after the earliest of:
- (1)** Escrow Agent's receipt of a mutual release (on a Bar Association approved form) executed and delivered by each of the Parties and Brokers to the others on terms agreed to by the Parties and Brokers that designates the manner in which the Deposits are to be distributed ("Release").;
 - (2)** Escrow Agent's receipt of a copy of a final non-appealable court order which directs how the Deposits are to be distributed; or
 - (3)** The date designated by Escrow Agent in a Notice of Intention (as defined below) as the date by which written objections to the release of the Deposits must be received by Escrow Agent, provided no written objection is received by Escrow Agent by such designated date. A "Notice of Intention" is a notice given by Escrow Agent to the Parties and their respective attorneys of Escrow Agent's intention to distribute the Deposits to Seller or Purchaser, as the case may be, due to a cancellation or breach of this Contract. The Notice of Intention shall be delivered by certified mail, return receipt requested and a copy by first class mail at least 7 days prior to such designated date and shall specify to whom the Deposits shall be distributed and the amount to be distributed to each. Escrow Agent shall deliver a Notice of Intention within 3 Business Days following Escrow Agent's receipt of a written demand for same from a Party.
 - (4)** In the event Escrow Agent receives a written objection pursuant to Paragraph ATC11(D)(3) by the date designated in the Notice of Intention, Escrow Agent may thereafter deposit the Deposits with any New York State court in whose jurisdiction any part the Property lies and commence an interpleader action to determine the disposition of the Deposits ("Interpleader Action"). Each Party shall reimburse Escrow Agent one-half of all expenses incurred by Escrow Agent, including court costs and reasonable attorneys fees, arising out of the commencement and prosecution of the Interpleader Action unless the court directs a different allocation of Escrow Agent's expenses.
- (E) Escrow Agent.** By accepting the Deposits, (i) Escrow Agent warrants that the individual signing on behalf of Escrow Agent is authorized to bind Escrow Agent and (ii) agrees to act in accordance with the terms of Paragraphs 4, ATC10, ATC11, ATC12, ATC13 and ATC14. Escrow Agent is not a party to this Contract for any other purpose and in such capacity shall not be liable for any damages under this Contract except for any act or omission inconsistent with the terms of this Contract.
- (F) Rights Retained.** Nothing contained in this Paragraph shall affect any right of either Party with respect to any claim against the Brokers.

ATC12. NOTICES.

- (A) Addresses.** All notices, demands and objections given under this Contract shall be ***in writing and delivered*** in accordance with Paragraph ATC13, except as provided in Paragraph ATC11(D)(3). Any notice to be delivered to Seller or Purchaser or Escrow Agent, other than those personally delivered, shall be delivered to Seller's, Purchaser's or Escrow Agent's address listed in this Contract, unless such Party has given notice to the other Parties of different address.
- (B) Notice by Attorney.** Any notice or objection to be given to or demand of Seller which may be made by Purchaser under this Contract may be given or made by Purchaser or on behalf of Purchaser by Purchaser's attorney to Seller's attorney ***with a copy to Seller*** of only any notice of cancellation, notice declaring time of the essence or notice of satisfaction of any Sale Contingency. Any notice or objection to be given to or demand of Purchaser which may be made by Seller under this Contract may be given or made by Seller or on behalf of Seller by Seller's attorney to Purchaser's attorney ***with a copy to Purchaser*** of only any notice of cancellation, notice declaring time of the essence or notice of acceptance of a Subsequent Agreement (as defined in Paragraph SCR2), if applicable.

ATC13. ADDITIONAL REFERENCES/DEFINITIONS.

The following terms shall have the following meanings throughout, and in all modifications of, this Contract:

- (A) Delivery.** Unless otherwise specifically provided, delivery of this Contract and of notices, demands or objections to be given in accordance with this Contract shall be made by fax, personal delivery, first class mail, overnight letter delivery service or verified by a Signature Authenticator (as defined in ATC14(C)). If delivery is made by fax, the document(s) with original signature(s) shall be mailed by first class prepaid mail no later than 1 Business

Day following the date of the confirmed fax transmission.

(B) Receipt.

- (1) If delivery is made by fax, the document(s) transmitted shall be deemed received on the date the sender receives confirmation from the recipient's equipment that the entire transmission has been received, provided the required mailing is completed.
- (2) If delivery is made by personal delivery, the document(s) delivered shall be deemed received on the date delivered.
- (3) If delivery is made by first class mail or overnight letter delivery service, the document(s) delivered shall be deemed received 1 Business Day following the date upon which the documents are deposited with the postal service with required postage affixed or with the delivery service with delivery charges prepaid or charged to the sender's account.
- (4) If delivery is made by certified mail as required by this Contract, the document(s) delivered shall be deemed received (a) on the date the return receipt is signed, (b) on the date delivery is refused, or (c) if the mailing is not claimed, 3 Business Days following the date upon which the documents are deposited with the postal service with required postage affixed, provided copies of the documents were mailed by first class prepaid mail no later than 1 Business Day following the certified mailing.
- (5) If delivery is made by a Signature Authenticator, the document shall be deemed received by the recipient on the date of receipt as reflected in the records of the Signature Authenticator.
- (6) If delivery is made in a manner which does not comply with the provisions of Paragraph ATC13(A) and the other Party or the other Party's attorney acknowledges receipt of the notice, demand or objection, the notice, demand or objection shall be deemed received on the earlier of the date of the acknowledgment or the date of receipt set forth in the acknowledgment.
- (7) If a notice, demand or objection is given by a Party's attorney in accordance with Paragraph ATC12(B), the notice, demand or objection shall be deemed received on the earlier of the date the notice, demand or objection is received by the other Party or other Party's attorney.

(C) Business Day. "Business Day" shall mean calendar days excluding Saturdays, Sundays and legal holidays and shall end at 5:00 p.m. A day other than a Business Day shall end at 11:59 p.m.

(D) Effective Date. "Effective Date" shall mean the latest date on which (i) the last of the Parties has (a) signed this Contract, and (b) initialed all changes made, if any, and (ii) a duplicate of this Contract with applicable original signatures and initials of the Parties or digital signatures and initials certified by a Signature Authenticator, has been received by the other Party or the other Party's attorney.

(E) Use of Terms. Whenever the term "including" is used, it shall mean "including but not limited to".

ATC14. MISCELLANEOUS.

- (A) Attorney's Fees.** In connection with any litigation concerning this Contract, the prevailing Party shall be entitled to recover reasonable attorney's fees and costs.
- (B) Captions.** The captions contained in this Contract are for convenience only and are not intended to limit or amplify the terms of this Contract.
- (C) Electronic Signatures.** The Parties, Brokers and Escrow Agent agree and consent that this Contract, and every demand, notice and objection given under this Contract, may be signed and initialed in any manner permitted by the laws of New York State including the Electronic Signatures and Records Act and applicable regulations ("ESRA"). Electronic signatures and initials verified by a person acting as a Certification Authority as provided under ESRA ("Signature Authenticator") shall be considered deemed originals.
- (D) Governing Law.** This Contract shall be interpreted and enforced in accordance with the laws of the State of New York without regard to the principle of conflict of laws. The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision of this Contract.
- (E) Jurisdiction.** The Parties agree to submit to the jurisdiction of the Courts of the State of New York in the County in which the Property is located with respect to any dispute arising out of this Contract.
- (F) Parties Bound/Entire Agreement.** This Contract is intended to bind the Parties and Escrow Agent, and those who succeed to their interests, contains the entire agreement between the Parties, and, for purposes of Paragraphs 4, ATC10, ATC11, ATC12, ATC13 and ATC14, the Escrow Agent. Nothing is binding upon the Parties which is not contained in this Contract. Any modification of this Contract must be in writing and signed by the Parties. Nothing herein expressed or implied is intended or shall be construed to grant to any person, other than the Parties and those who succeed to their interests, any rights or remedies under or by reason of this Contract.
- (G) Survival.** The disclosures in Paragraph 6(R), (V) and (W) and the provisions of Paragraphs ATC11(B) and (F) and ATC14 shall survive the Closing or cancellation of this Contract. Any claim arising from failure to comply with Paragraphs 3(E)(5), 5, 13, 15, ATC2(C) and (D), ATC8, ATC9(B), ATC10 and ATC11(C) shall survive for 2 years after the Closing or cancellation of this Contract. Whether any other provision of this Contract survives the Closing shall be determined by applicable law or as specifically set forth in this Contract.



LEAD-BASED PAINT RIDER AND DISCLOSURE



RIDER TO CONTRACT dated: _____ ("Contract")
between _____
and _____ ("Seller")
_____ ("Purchaser")
regarding: _____ ("Property").

The Parties agree that the following additions and/or modifications are hereby made to the Contract:

LBPR1. VALIDITY OF CONTRACT. Federal Regulations require that Seller provide the disclosures in Paragraph LBPR4 **before** the Contract becomes binding on Purchaser. If any such disclosures are changed after Purchaser signs the Contract, Purchaser may cancel the Contract.

LBPR2. LEAD WARNING STATEMENT. Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

LBPR3. LEAD HAZARD INFORMATION PAMPHLET. Seller shall deliver to Purchaser the EPA approved lead-hazard information pamphlet, *Protect Your Family From Lead in Your Home*. Intact lead-based paint that is in good condition is not necessarily a hazard.

LBPR4. SELLER'S DISCLOSURES. (Check all applicable boxes.)

(A) Presence of Lead-Based Paint and/or Lead-Based Paint Hazards. (Check either (1) or (2) below.)

Initials & Date	
Purchaser	Seller

- (1) Hazards Known.** Attached hereto is a statement signed by Seller disclosing the presence of known lead-based paint and/or lead-based paint hazards at the Property, including but not limited to the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards and the condition of the painted surfaces.
- (2) Hazards Unknown.** Seller has no actual knowledge of the presence of lead-based paint and/or lead-based paint hazards at the Property.

(B) Records and Reports Available to Seller. (Check either (1) or (2) below.)

Initials & Date	
Purchaser	Seller

- (1) Record Provided.** The following is a list of all records and/or reports available to Seller pertaining to lead-based paint and/or lead-based paint hazards at the Property.

- (2) No Records.** Seller has no records or reports pertaining to lead-based paint and/or lead-based paint hazards at the Property.

Initials & Date

Purchaser	Seller
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(C) Validity of Information. This Rider was prepared based on information previously provided by Seller either verbally or as part of Seller's listing information.

LBPR5. RISK ASSESSMENT. Choose either (A) or (B) below ("**A**", if blank).

Purchaser Initials & Date

- (A)** Purchaser hereby waives the opportunity to conduct a lead-based paint hazard risk assessment or inspection.
- (B)** This Contract is contingent upon a risk assessment or inspection of the Property for the presence of lead-based paint and/or lead-based paint hazards being obtained by Purchaser at Purchaser's expense within 10 days after the Effective Date ("Lead Paint Inspection Period"). The results must be satisfactory to the Purchaser ("Lead-Based Paint Inspection Contingency"). If the results of such inspection are unacceptable to Purchaser for any reason whatsoever, Purchaser shall notify Seller within 2 Business Days after the end of the Lead Paint Inspection Period, together with a copy of the inspection and/or risk assessment report. In such case, either Party may cancel this Contract. A copy of such notice(s) **should** be delivered to the Brokers. If Purchaser does not notify Seller of any unacceptable results within 2 Business Days after the end of the Lead Paint Inspection Period, the Lead-Based Paint Inspection Contingency is deemed waived by the Purchaser. Seller will cooperate with Purchaser's inspection in such fashion as may be reasonably requested by Purchaser. Purchaser may remove this contingency at any time without cause.

LBPR6. PURCHASER'S ACKNOWLEDGMENT.

Purchaser Initials & Date

- (A)** Purchaser has received copies of all information, records and/or reports set forth in Paragraph LBPR4 of this Rider or attached to this Contract, or has been informed that no such information, records and/or reports exist.
- (B)** Purchaser has received the EPA approved lead hazard information pamphlet, *Protect Your Family From Lead in Your Home*.

LBPR7. CERTIFICATION OF ACCURACY. Seller and Purchaser have reviewed the information above and each certifies to the best of his/her/their knowledge that the statements he/she/they have provided are true and accurate.

Seller	Date	Purchaser	Date
Seller	Date	Purchaser	Date
Seller	Date	Purchaser	Date
Seller	Date	Purchaser	Date

AGENTS' ACKNOWLEDGMENT

Each real estate agent who receives compensation from payment made by Seller acknowledges that he/she:

- (a) prepared this Rider based on information previously provided by Seller either verbally or as part of Seller's listing information;
- (b) has informed the Seller of the Seller's obligations under 42 U.S.C. 4852(d);
- (c) is aware of his/her duty to ensure compliance; and
- (d) certifies that his/her statements are true and accurate to the best of his/her knowledge.

Agent	Date	Agent	Date
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[Property Address]



RENTED PROPERTY RIDER



RIDER TO CONTRACT dated: _____ ("Contract")
 between _____
 _____ ("Seller")
 and _____
 _____ ("Purchaser")
 regarding: _____ ("Property").

The Parties agree that the following additions and/or modifications are hereby made to the Contract:

RPR1. TENANTS. The Property is subject to the following tenancies:

UNIT NO.				
NAME				
MONTHLY RENT				
INITIAL SECURITY DEPOSIT				
SECURITY DEPOSIT REMAINING				
ADVANCE RENT PAID				
INTEREST BEARING ACCOUNT?				
TENANCY (MONTH-TO-MONTH OR LEASE)				
DATE LEASE TERM EXPIRES				
FIRST DAY OF TERM FOR MONTH-TO-MONTH TENANCIES (e.g. 1st, 15th)				
UTILITIES INCLUDED IN RENT				
APPLIANCES INCLUDED IN SALE				

RPR2. TENANT PROPERTY. Tenants' furniture and household furnishings are excluded from this sale.

RPR3. SELLER'S REPRESENTATIONS. Seller represents (1) that the Property *is* *is not* subject to rent control ("*is not*" if blank); (2) that there are no known defenses available to tenants as to the enforcement of Seller's rights as

 Seller Initials

[Property Address]
 Page 1 of 2

 Purchaser Initials



SALE CONTINGENCY RIDER



RIDER TO CONTRACT dated: _____ ("Contract")
between _____ ("Seller")
and _____ ("Purchaser")
regarding: _____ ("Property").

The Parties agree that the following additions and/or modifications are hereby made to the Contract:

SCR1. SALE CONTINGENCY. This Contract is contingent upon receipt by Seller or Seller's attorney, on or before _____ ("Sale Contingency Expiration Date"), of notice **and** proof that one or more of the following conditions have been met:

(A) Purchaser has entered into a bona fide contract for the sale of real estate owned by Purchaser located at: _____ ("Purchaser's Property")

and the following requirements are met:

- (1)** All contingencies in the contract for the sale of Purchaser's Property ("Purchaser's Property Contract") **and** in this Contract, other than contingencies relating to the receipt of a loan commitment, loan assumption, or the closing contingency of Paragraph 7(C) of this Contract, if any, have either been satisfied or waived;
- (2)** Except for the proceeds of a loan, if applicable, the buyer of Purchaser's Property is in actual possession of sufficient money in U.S. dollars on deposit with a Financial Institution to close the transaction and does not require, and the lender for the buyer of Purchaser's Property will not require, the sale of other property or the discharge of any other mortgage in order to close;
- (3)** The Purchaser's Property Contract provides that a commitment for financing or loan assumption approval, if applicable, be obtained not more than 45 days after the full execution of the Purchaser's Property Contract; **and**
- (4)** The closing date provided in the Purchaser's Property Contract shall not be later than the Contract Closing Date.

(B) Purchaser has verified money in U.S. dollars on deposit with a Financial Institution sufficient to close this Contract without selling Purchaser's Property and without obtaining a Loan Commitment.

(C) Purchaser's lender will not require, as a condition to closing the Loan Commitment, the sale of Purchaser's Property, nor the repayment of any debt, **and** Purchaser has verified money in U.S. dollars on deposit with a Financial Institution sufficient to close this transaction.

SCR2. SELLER'S ACCEPTANCE OF SUBSEQUENT OFFERS. Seller has the right to continue to market the Property until this contingency is satisfied. If, prior to the satisfaction of this contingency, Seller accepts a bona fide written offer for the Property ("Subsequent Agreement"), Purchaser shall have until 5:00 p.m. of the _____ ("**third**" if **blank**) Business Day following Purchaser's receipt of written notice of such Subsequent Agreement ("Contingency Removal Date") to satisfy this contingency by delivery of notice **and** proof as specified in Paragraph SCR1. The Subsequent Agreement (*insert "may" or "shall not"*) _____ ("**shall not**" if **blank**) be contingent upon the sale of other real estate. All attorney approval contingencies contained in such Subsequent Agreement, if any, must have been satisfied or waived before notice is delivered to Purchaser. Notice of Seller's acceptance of a Subsequent Agreement may be delivered by Seller or anyone designated by Seller. A copy of the notice of acceptance of a Subsequent Agreement **should** be mailed to the Brokers.

SCR3. FAILURE TO SATISFY CONTINGENCY. If this contingency is not satisfied by delivery of notice and proof as specified in Paragraph SCR1 by the earlier of the Contingency Removal Date or the Sale Contingency Expiration Date, either Party may cancel this Contract.

SCR4. DELIVERY AND RECEIPT OF NOTICES. For purposes of only Paragraphs SCR1 and SCR2, the provisions of this Paragraph SCR4 shall apply in lieu of Paragraphs ATC13(A) and ATC13(B).

(A) Methods of Delivery.

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Seller Initials

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Purchaser Initials

- (1) **Personal Delivery.** Personal delivery shall be made by any of the following methods:
 - (a) By delivery of the notice to the person to be notified; or
 - (b) By either:
 - (i) delivering the notice to a person of suitable age and discretion at the address of the person to be notified; or
 - (ii) depositing the notice through the mail slot or under the entrance door at the address of the person to be notified; or
 - (iii) affixing the notice conspicuously to the door at the address of the person to be notified; **and**, in all cases of (i), (ii) and (iii), by mailing the notice to the person to be notified at his or her address by first class mail, postage prepaid, **within one (1) Business Day** after delivery, depositing or affixing.
- (2) **Overnight Delivery Service.** Overnight delivery shall be made by delivering the notice, addressed to the person to be notified at his or her address, to an overnight delivery service with the delivery charges prepaid or charged to the account of the person giving notice.
- (3) **Fax.** Fax delivery shall be made by faxing the notice to the fax number of the person to be notified **and** by mailing the notice to the person to be notified at his or her address by first class mail, postage prepaid, **within one (1) Business Day** after faxing.
- (4) **First Class Mail.** First class mail delivery shall be made by mailing the notice to the person to be notified at his or her address by first class mail, postage prepaid.
- (5) **Certified Mail.** Certified mail delivery shall be made by mailing the notice to the person to be notified at his or her address by certified mail, return receipt requested, postage prepaid, **and** by mailing the notice to the person to be notified at his or her address by first class mail, postage prepaid **within one (1) Business Day** after the certified mailing.

(B) Receipt of Notices.

- (1) **Personal Delivery.**
 - (a) When the notice is personally delivered to the person to be notified, the notice is deemed to have been received upon delivery to that person.
 - (b) When notice is delivered by any method set forth in Paragraph SCR4(A)(1)(b), the notice is deemed to have been received on the second Business Day following completion of the required mailing.
- (2) **Overnight Delivery Service.** When notice is made by overnight delivery service, by depositing the notice in a repository of the overnight delivery service before the last scheduled pick-up on the date of depositing or by deliver of the notice to the overnight delivery service during its business hours, the notice shall be deemed to have been received on the first Business Day following such depositing or delivery. Otherwise, the notice shall be deemed to have been received on the second Business Day following the deposit of the notice in the repository or delivery of the notice to the overnight delivery service.
- (3) **Fax.** When notice is made by fax, the notice is deemed to have been received on the date the required mailing is completed provided the person giving the notice has received confirmation from the facsimile equipment of the person being notified that the entire transmission was received.
- (4) **First Class Mail.** When notice is made by first class mail; the notice is deemed to have been received on the fourth Business Day following the day upon which the notice is deposited with a representative or in a repository of the U.S. Postal Service with required postage affixed.
- (5) **Certified Mail.** When notice is made by certified mail, the notice is deemed to have been received on the second Business Day following the day upon which the required first class mailing is deposited with a representative or in a repository of the U.S. Postal Service with required postage affixed.

SCR5. AUTHORITY. For purposes of delivery and receipt of notices pursuant to Paragraph SCR4:

- (A) The signature of one Seller shall be deemed binding on all Sellers and the signature of one Purchaser shall be deemed binding on all Purchasers.
- (B) Delivery to one party identified in the Contract as Purchaser or Seller shall be deemed delivery to all parties identified as Purchaser or Seller.

Seller	Date	Purchaser	Date
Seller	Date	Purchaser	Date
Seller	Date	Purchaser	Date
Seller	Date	Purchaser	Date

Copies of the following forms may be used, but their use is not required.

NOTICE OF ACCEPTANCE OF SUBSEQUENT OFFER

To: PURCHASER

You are hereby advised that Seller has accepted a bona fide written offer for the Property. Unless you satisfy this contingency by satisfying one or more of the requirements of Paragraph SCR1 by the Contingency Removal Date (defined in Paragraph SCR2) this Contract shall automatically be null and void, neither Party shall have any claim against the other and you shall be entitled to return of your full deposit.

Signature of Seller

Date

ACKNOWLEDGEMENT OF RECEIPT OF NOTICE OF ACCEPTANCE OF SUBSEQUENT OFFER

To: SELLER

The Seller's Notice of Acceptance of Subsequent Offer was received on _____.

Signature of Purchaser

Date

NOTICE OF SATISFACTION OF CONTINGENCY

To: SELLER

The Sale Contingency is hereby satisfied and proof that the requirements of Paragraph SCR1 are satisfied are attached.

Signature of Purchaser

Date

ACKNOWLEDGMENT OF RECEIPT OF CONTINGENCY SATISFACTION

To: PURCHASER

The Purchaser's Notice of Contingency Satisfaction was received on _____.

Signature of Seller

Date



VACANT LAND RIDER



RIDER TO CONTRACT dated: _____ ("Contract")
between _____
_____ ("Seller")
and _____
_____ ("Purchaser")
regarding: _____ ("Property").

The Parties agree that the following additions and/or modifications are hereby made to this Contract:

VLR1. INTENDED USES/IMPROVEMENTS. Purchaser's Intended Uses and Intended Improvements are set forth in Paragraph 12(A). (**Note:** Paragraph 12(A) must be completed.)

VLR2. SELLER'S DISCLOSURES. Seller makes the following disclosures to the best of Seller's knowledge (**NOTE: complete each item**):

- (A) The Property is currently zoned for residential use as a one two three four family dwelling.
- (B) The Property is wholly or partially either Federal or State Wetlands Yes No
- (C) The public municipal road referred to in Paragraph 6(P)(1) is known as _____ ("Road").

(D) There are currently the following easements and lines, for servicing the Intended Improvements, located (i) on the Property, along the entire Property line contiguous to the Road **and** no more than 15 feet in width; or (ii) within the Road, along and no more than 5 feet from the entire Property line contiguous to the Road:

- (1) electric Yes No Other
- (2) natural gas Yes No Other
- (3) public water Yes No Other
- (4) public sanitary sewer Yes No Other
- (5) public storm sewer Yes No Other
- (6) telephone Yes No Other
- (7) cable television Yes No Other

If "Other" is checked, attach an explanation.

CAUTION: Seller is not guaranteeing the availability or location of utilities. Purchaser should verify the location and cost of connecting to utilities.

- (E) The Property is subject to special assessments for public improvements (for example: sewers, lighting, sidewalks, water, etc.) Yes No

VLR3. SURVEY STAKING. The Property is to be staked by the surveyor at Seller's expense Yes No

VLR4. PROPERTY INVESTIGATION.

- (A) **Applicability.** The provisions of this Paragraph VLR4 shall apply in lieu of Paragraphs 8 and 9 and the last sentence of Paragraph 12(A)(3).
- (B) **Investigation.** Within 30 days following the satisfaction or waiver of the Attorney Approval Contingency ("Investigation Period"), Purchaser shall complete all tests, inspections, investigations and/or cost estimates ("Investigations") desired by Purchaser to determine that the Property is acceptable for the Intended Uses and Intended Improvements (for example: percolation test, availability of well water, location of and cost of connecting to utilities, review of restrictive covenants, subdivision compliance, availability of building permit, soil tests, environmental and archeological tests and investigations, zoning, flood plain and/or wetlands status,

Seller Initials

Purchaser Initials



etc.). The results of the Investigation must be satisfactory to Purchaser (“Investigation Contingency”). The cost of the Investigations shall be paid by Purchaser, except for the following which shall be paid by Seller:

- (C) **Cooperation.** Without the written consent of Seller, no investigations shall be conducted which would result in physical damage to the Property. Seller will otherwise cooperate with Purchaser’s Investigations, in such fashion as may be reasonably requested by Purchaser. Upon request of Purchaser, Seller shall promptly deliver to Purchaser or Purchaser’s attorney a copy of any title search and survey map relating to the Property in the possession of Seller, Seller’s attorney or Listing Broker and a complete copy of each record and report reasonably available to Seller at a nominal cost to Seller pertaining to any of the matters being investigated by Purchaser. Upon request of Seller, Purchaser shall promptly deliver a copy of each record and report available to Purchaser pertaining to any of the matters investigated. Upon completion of the Investigations, Purchaser shall cause the Property to be returned to substantially the same condition as existed on the Contract Date.

- (D) **Right to Cancel Contract.** If the results of any Investigations are unacceptable to Purchaser for any reason, Purchaser shall notify Seller or Seller’s attorney in writing (the results need not be disclosed). In such case, either Party may cancel this Contract. **Purchaser’s notice of unacceptable results *must be received by Seller or Seller’s attorney before the expiration of the Investigation Period.*** If Purchaser’s notice of unacceptable results is not received by Seller or Seller’s attorney before the end of the Investigation Period, this contingency is deemed waived by Purchaser.

Seller	Date	Purchaser	Date
Seller	Date	Purchaser	Date
Seller	Date	Purchaser	Date
Seller	Date	Purchaser	Date



LOAN ASSUMPTION RIDER



RIDER TO CONTRACT dated: _____ ("Contract")
between _____ ("Seller")
and _____ ("Purchaser")
regarding: _____ ("Property").

The Parties agree that the following additions and/or modifications are hereby made to Paragraph 10:

LAR1. LOAN TO BE ASSUMED. Purchaser shall assume and agree to pay, according to its terms, the unpaid principal balance of the loan secured by a mortgage encumbering the Property held or serviced by _____ having an unpaid principal balance of approximately \$ _____, and bearing interest at the annual rate of _____ per cent. Monthly loan payments are \$ _____ and include principal, interest, taxes, insurance and other [describe] _____.

(A) **Adjustable Rate.** The interest rate on the loan to be assumed is is not adjustable. If adjustable, the interest rate may change every _____. The interest rate may not increase or decrease more than _____% on any change date and may never exceed _____%.

(B) **Balloon Payment.** The loan being assumed:
 does not have a "balloon" payment provision.
 does have a "balloon" payment provision which requires that the entire unpaid principal balance and accrued interest be paid in full on _____.

LAR2. LOAN DOCUMENT REVIEW. If not already provided, Seller shall provide Purchaser, within 10 days following the Effective Date, complete copies of the following loan documents (collectively, the "Loan Documents"): (i) the note evidencing the loan, (ii) the mortgage given to secure the note which encumbers the Property as recorded in the County Clerk's Office, (iii) all amendments, extensions, consolidations, renewals, modifications, substitutions, spreaders and replacements of each of the obligations to be assumed by Purchaser, and (iv) all other material agreements relating to the loan. The copies provided by Seller shall be certified by Seller to Purchaser to be true and complete copies. If any of the Loan Documents are not acceptable to Purchaser, Purchaser may cancel this Contract within 5 Business Days following Purchaser's receipt of the Loan Documents.

LAR3. NOTE HOLDER'S CONSENT. Seller shall promptly provide Purchaser with the name, address and telephone number of the note holder or loan servicer to be assumed, the loan number and any other relevant information. Provided the Loan Documents so require, Purchaser shall promptly and in good faith make application for approval to assume the loan. If the consent of the note holder or loan servicer to assume the loan is required and not obtained by _____, either Party may cancel this Contract at any time prior to Purchaser's receipt of approval to assume the loan. If, by the above date, consent to the assumption is given only at an annual interest rate in excess of _____% Purchaser may cancel this Contract.

LAR4. ASSUMPTION STATEMENT. At least 3 Business Days prior to Closing, Seller shall furnish to Purchaser a statement provided by the note holder or loan servicer setting forth the unpaid principal balance of the loan, interest and charges due, escrow balance, if any, and the terms of repayment. Purchaser shall, within 5 Business Days after Closing, notify the note holder or loan servicer that title to the Property has been transferred to Purchaser and Purchaser has assumed the loan. The Parties shall comply with all requirements of the note holder or loan servicer to facilitate the assumption.

LAR5. RELEASE OF LIABILITY. Seller does does not require Purchaser to obtain a release of Seller's liability under the Loan Documents.

LAR6. NO DEFAULT. Seller shall continue to make payments due under the Loan Documents and shall not cause a default under the Loan Documents prior to Closing.

LAR7. SURVIVAL. The provisions of LAR2 and LAR4 shall survive for 2 years after the Closing.

_____ Seller	_____ Date	_____ Purchaser	_____ Date
_____ Seller	_____ Date	_____ Purchaser	_____ Date
_____ Seller	_____ Date	_____ Purchaser	_____ Date
_____ Seller	_____ Date	_____ Purchaser	_____ Date



SELLER FINANCING RIDER



RIDER TO CONTRACT dated: _____ ("Contract")
between _____
_____ ("Seller")
and _____
_____ ("Purchaser")
regarding: _____ ("Property").

The Parties agree that the following additions and/or modifications are hereby made to Paragraph 10 of this Contract:

- SFR1. LOAN TERMS.** Seller will provide Purchaser with a purchase money mortgage loan upon the following terms:
- (A) **Loan Amount.** The amount of the loan will be \$ _____
 - (B) **Lien Position.** The mortgage to be given by Purchaser to Seller to secure the loan shall be a _____ lien on the Property.
 - (C) **Interest Rate.** Interest shall be payable on the loan at the annual rate of _____ %.
 - (D) **Loan Payments.**
 - (1) **Interest Payments.** Purchaser will pay:
 - (a) principal and interest payments; or
 - (b) interest only payments.
 - (2) **Time of Payments.** Purchaser will make payments:
 - (a) monthly
 - (b) quarterly
 - (c) annually
 - (d) other: _____.
 - (3) **Amount of Payments.** Each of the payments shall be in the amount of \$ _____.
 - (4) **Maturity Date of Payments.** The loan is a:
 - (a) Non-balloon loan and Purchaser will pay the full balance of the loan at the end of _____ years.
 - (b) Balloon loan and Purchaser will pay the full balance of the loan at the end of _____ years, even though the payments are computed as if payments were made over _____ years.
 - (E) **Prepayment.** The loan may be prepaid in whole or in part at any time without penalty for prepayment.
 - (F) **Assumption.** The loan will not be assumable and the mortgage will contain a due on transfer clause.

SFR2. LOAN DOCUMENTS. At Closing, Purchaser shall execute and deliver to Seller a purchase money note and a mortgage on forms approved by BAEC.

SFR3. TITLE INSURANCE. In the event an Owner's Policy is required pursuant to ATC5(B), Purchaser shall provide a Loan Policy insuring Seller unless Seller has coverage under an existing title insurance policy insuring the Title Defects. Payment of the premiums for the title insurance shall be determined pursuant to ATC5(D).

SFR4. OTHER TERMS. *(If blank, this paragraph is not applicable.)* In the event of a conflict between the provisions of this paragraph and the provisions of any other paragraph of this Contract, the provisions of this paragraph shall control.

_____ Seller	_____ Date	_____ Purchaser	_____ Date
_____ Seller	_____ Date	_____ Purchaser	_____ Date
_____ Seller	_____ Date	_____ Purchaser	_____ Date
_____ Seller	_____ Date	_____ Purchaser	_____ Date



CONDOMINIUM / HOMEOWNERS' ASSOCIATION RIDER



RIDER No. _____ TO CONTRACT dated: _____ ("Contract")
between _____ ("Seller")
and _____ ("Purchaser")
regarding: _____ ("Property").

CAUTION:

- The Property is subject to one or more Declarations (as defined in Paragraph CHAR3) which contain restrictive covenants governing the use and occupancy of the Property. The use of the Property is also subject to any rules and regulations as are established from time to time by the governing board of the Condominium or Homeowners' Association.
- Owners of Condominium Units and of properties with an interest in a Homeowners' Association are obligated to pay Regular Assessments (as defined and set forth in CHAR2(B)(1)) and Special Assessments (as defined in CHAR6 and set forth in CHAR2(B)(2)) for the maintenance and replacement of property owned by the Condominium or Homeowners' Association. The Regular Assessments and Special Assessments are subject to change by the governing board of the Condominium or Homeowners' Association. The failure to pay Regular Assessments or Special Assessments could result In a lien being placed against the Property.
- Purchaser is advised to carefully read the Organization Documents (as defined in Paragraph CHAR3(A)) in order to make an informed decision about purchasing the Property.
- The coverage provided under the insurance policy issued to the Condominium or Homeowners' Association ("Master Insurance Policy") may not cover a loss to Purchaser due to personal injury, property damage or other casualty within the Property. Purchaser should review the Organization Documents and the Master Insurance Policy with Purchaser's insurance consultant in order to determine whether additional insurance coverage should be obtained. Special consideration should be given to interior and exterior alterations or improvements (for example: wallpaper, carpeting, lighting fixtures, cabinetry, built-ins).

The Parties agree that the following additions and/or modifications are hereby made to the Contract:

CHAR1. PROPERTY. Paragraph 3(B) of this Contract is amended to add the following (*choose and complete all that apply*):

- (A) **Condominium.** Residential condominium unit number _____ and, if any, garage unit number _____, including an appurtenant interest in the common elements in the _____ Condominium ("Condominium"). The residential unit, garage unit and appurtenant interest(s) are collectively referred to as the "Condominium Unit".
- (B) **Homeowners' Association.** An automatic membership interest in the homeowners' association commonly known as _____ Association ("Homeowners' Association").
- (C) **Exclusive Right to Use.** Exclusive right to use: _____ garage parking space(s); _____ outdoor parking space(s); basement storage area number _____; central mailbox number _____.

CHAR2. FIXTURES, PROPERTY RIGHTS AND SELLER'S DISCLOSURES AND REPRESENTATIONS.

- (A) **Excluded Obligations and Disclosures.** The items set forth in Paragraph 3(D) and (E) and Seller's disclosures set forth in Paragraph 6(A) shall **not** include either any part of the common elements of the Condominium (except the undivided percentage interest in the common elements appurtenant to the Condominium Unit) or any items which are owned by the Homeowners' Association. The obligations of Seller

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Seller Initials

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Purchaser Initials

under Paragraph 5(A) and 5(D) shall **not** include those items which are the responsibility of the Condominium or Homeowners' Association.

(B) Seller's Representations. Seller represents that:

(1) The Condominium and/or Homeowners' Association regular periodic common charges and/or maintenance assessments for the Property as of the Contract Date are: \$_____ per month quarter year ("Regular Assessments").

(2) The Property is subject to Special Assessments (as defined in Paragraph CHAR6), the payment of which:
 (a) was due within the 12 months **prior** to the Contract Date **Yes** **No**
 If "Yes", complete the following:

Date approved: _____
 Due date: _____ Amount: \$ _____
 Due date: _____ Amount: \$ _____
 Due date: _____ Amount: \$ _____

(b) will be due **after** the Contract Date **Yes** **No**
 If "Yes", complete the following:

Date approved: _____
 Due date: _____ Amount: \$ _____
 Due date: _____ Amount: \$ _____
 Due date: _____ Amount: \$ _____

CHAR3. TITLE DOCUMENTS.

(A) Declaration, By-Laws and Rules. If not provided already, Seller shall, within 10 days after the Effective Date, provide Purchaser with copies of documents relating to the Condominium and/or Homeowners' Association, as follows: (i) the recorded declaration(s) creating the Condominium and/or Homeowners' Association ("Declaration"); (ii) all amendments to the Declaration; (iii) the current by-laws, rules, regulations and the most recent annual financial statement certified by the Board of Directors or Board of Managers of the Condominium and/or Homeowners' Association ("Board") or its authorized managing agent ("Managing Agent"); and (iv) a certification from, as applicable, the Board or Managing Agent stating whether there are any special assessments presently under consideration (collectively, the "Organization Documents"). If the Organization Documents are not acceptable, Purchaser shall have until the later of (aa) 5 Business Days from the date of receipt of the Organization Documents, or (bb) the end of the Approval Period, to cancel this Contract.

(B) Condominium Unit. If the Property is a Condominium Unit, the following shall apply:

(1) Title Insurance. In lieu of Paragraph ATC2(A) and, if the Property does not include land, in lieu of Paragraph ATC2(C):

(a) Order and Delivery. Within 5 Business Days after the later of (i) the Effective Date, (ii) the satisfaction or waiver of the Attorney Approval Contingency, Property Inspection Contingency, Lead-Based Paint Inspection Contingency and Sale Contingency, if applicable, Seller shall order a commitment for an Owner's Policy and any Loan Policy required by Purchaser's lender(s). The Loan Policy and Owner's Policy shall insure that the Condominium has been validly created and is still in existence pursuant to Article 9B of the Real Property Law and may contain exceptions for the Organization Documents provided they have not been violated. Seller shall deliver the commitment for the Owner's Policy and Loan Policy(ies), if applicable, to Purchaser's attorney not less than 15 Business Days before the Contract Closing Date. The provisions of this paragraph shall apply to the extent they are inconsistent with Paragraph ATC5(C).

(b) Premiums. In addition to the provisions of Paragraph ATC5(D), Seller shall pay the premium for a condominium endorsement to the Owner's Policy and Purchaser shall pay the premium for a condominium endorsement to the Loan Policy, if applicable.

(2) Survey. If the Property includes land, the provisions of Paragraphs ATC2(B) and (C) shall apply. If the Property does not include land, in lieu of Paragraphs ATC2(B) and ATC2(C), Seller shall deliver to Purchaser's attorney not less than 15 days before the Contract Closing Date: (a) a copy of the survey map of the Condominium on file or recorded with and certified by the County Clerk which shows the completed improvements and an affidavit, made by someone with knowledge, that there has been no material change in the state of facts as shown on said survey map, or (b) a copy of the survey map made by a professional who is licensed or otherwise authorized under the New York Education Law to practice land surveying showing the property comprising the Condominium and the location of all buildings, improvements and other structures, and if the survey map is dated more than one year prior to the Contract Date, an affidavit,

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Seller Initials

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Purchaser Initials



made by someone with knowledge, that there has been no material change in the state of facts as shown on said survey map, or (c) a survey map of the Condominium meeting the criteria of Paragraph ATC2(B).

- (C) **Title to Homeowners' Association Common Areas.** If the Property includes an interest in the Homeowners' Association, in addition to the requirements under Paragraph ATC2, Seller shall, at Seller's expense, within the time period provided in Paragraph ATC2(C) provide one of the following: (i) a tax and title search meeting the criteria of Paragraph ATC2(A) covering title to the common areas designed to afford vehicular and pedestrian ingress and egress between the Property and a municipal road right of way ("Access Roads"), or (ii) a copy of the existing owners' title insurance policy or policies insuring the title of the Homeowners' Association to the Access Road(s), together with a tax and title search meeting the criteria of Paragraph ATC2(A) covering title to the Access Roads from the date of such policy or policies to a date subsequent to the Contract Date, or (iii) an owner's title insurance policy in the maximum amount available at the minimum premium dated as of Closing insuring the title of the Homeowners' Association to the Access Roads. Title Defects shall include any defect in the Homeowners' Association's title to the Access Roads. Any tax and title search required under this paragraph shall be continued to the date of Closing at Seller's expense.
- (D) **Certification from the Board or Managing Agent.** Not less than 7 days before the Contract Closing Date, Seller shall provide to Purchaser a certification from, as applicable, the Board or Managing Agent and/or architectural committee of the Condominium and/or Homeowners' Association ("Architectural Committee") stating:
 - (1) There are no changes in the Organization Documents nor are any such changes under present consideration, or if there are changes under consideration, the nature of the changes.
 - (2) The Property is in compliance with the Organization Documents and any applicable rules of the Architectural Committee.
 - (3) All Regular Assessments and Special Assessments with respect to the Property have been paid through the end of the month of Closing and the current amount(s) of the assessments.
 - (4) The amount of any Special Assessments which have not yet been billed.

CHAR4. PROPERTY SUBJECT TO ORGANIZATION DOCUMENTS. Paragraph ATC5(A) is modified by adding the following: "If the Property is a Condominium Unit or if the Property includes an interest in the Homeowners' Association, it is subject to the Organization Documents." The restrictions contained in the Organization Documents may include restrictions affecting pets, rentals and commercial/recreational vehicles.

CHAR5. FORM OF CONDOMINIUM DEED. If the Property is a Condominium Unit, the form of deed required pursuant to Paragraph ATC6 of this Contract shall comply with the requirements of Section 339-o of the Real Property Law and may be a bargain and sale deed with lien covenant and covenant against grantor's acts.

CHAR6. ADDITIONAL ADJUSTMENTS AT CLOSING. Paragraph 15(A) is modified by adding adjustments as follows: (i) non-delinquent Regular Assessments, and (ii) non-delinquent special assessments approved by the Board prior to the date of Closing ("Special Assessments"). For the purpose of adjusting Special Assessments pursuant to Paragraph 15(A), instead of a fiscal year, the adjustment shall be based on a fiscal period commencing on the date a Special Assessment was approved and ending on the date the final installment of the Special Assessment is due. All installments of Special Assessments due or payable during a fiscal period shall be adjusted and shall be treated as if due on the first day of the fiscal period. There shall be no adjustment or credit to Seller for any funds held as reserves for any purpose by the Condominium or Homeowners' Association. Subject to adjustment of Special Assessments as provided in this paragraph, Seller shall pay all installments of Special Assessments which have a due date on or before the date of Closing and Purchaser shall be responsible for all installments of Special Assessments which have a due date after the date of Closing.

_____	_____	_____	_____
Seller	Date	Purchaser	Date
_____	_____	_____	_____
Seller	Date	Purchaser	Date
_____	_____	_____	_____
Seller	Date	Purchaser	Date
_____	_____	_____	_____
Seller	Date	Purchaser	Date





PROPERTY INSPECTION NOTICE AND ADDENDUM



ADDENDUM No. _____ TO CONTRACT dated: _____ ("Contract")
between _____ ("Seller")
and _____ ("Purchaser")
regarding: _____ ("Property").

PINA1. MODIFICATION AND RATIFICATION. The Parties agree that the additions and/or modifications in this Property Inspection Notice and Addendum are hereby made to the Contract and all other terms and conditions of the Contract remain in full force and effect.

PINA2. CHANGES. (Check (A), (B), (C) or (D): The waiver, release or cancellation pursuant to Paragraphs PINA2(A), (B) or (C) shall be effective with Purchaser's signature only. **Seller must sign this Addendum for PINA2(D) to apply.**

- (A) Purchaser hereby waives the Property Inspection Contingency.
- (B) Purchaser hereby releases the Property Inspection Contingency as the Property Inspection has been performed and is satisfactory to Purchaser.
- (C) Purchaser hereby cancels the Contract as the Property Inspection has been performed and is not satisfactory to Purchaser.

(D) Purchaser hereby notifies Seller of the unsatisfactory results of the Property Inspection. Upon Seller's execution of this Addendum and satisfaction or waiver of the Addendum Approval Contingency, Purchaser releases the Property Inspection Contingency. In consideration for Purchaser's release, Seller will, (Check all that apply):

- (1) as of Purchaser's final inspection and Closing, have the following in working order, or deposit the indicated amount of funds in escrow:
 - Air Conditioning: _____ in working order; or escrow \$ _____.
 - Septic system: _____ in working order; or escrow \$ _____.
 - Pool and related equipment: _____ in working order; or escrow \$ _____.
 - Hot tub and related equipment: _____ in working order; or escrow \$ _____.
 - Other: _____: in working order; or escrow \$ _____.

If any escrow is selected, either Party may cancel the Contract if the terms of an escrow agreement are not agreed upon by the Parties' attorneys within 10 Business Days following the Addendum Effective Date.

- (2) at Closing, credit Purchaser the sum of \$ _____.
- (3) prior to Purchaser's Final Inspection, have the following repairs made in a good and workmanlike manner at no cost to Purchaser and have all required governmental inspections completed (Indicate with each item whether or not a licensed contractor must complete the work): Continuation Page attached

_____ Seller	_____ Date	_____ Purchaser	_____ Date
_____ Seller	_____ Date	_____ Purchaser	_____ Date
_____ Seller	_____ Date	_____ Purchaser	_____ Date
_____ Seller	_____ Date	_____ Purchaser	_____ Date



PROPERTY INSPECTION NOTICE AND ADDENDUM



CONTINUATION PAGE

ADDENDUM No. _____ TO CONTRACT dated: _____ ("Contract")
 between _____ ("Seller")
 and _____ ("Purchaser")
 regarding: _____ ("Property").

Paragraph PINA2(D)(3) continues as follows:

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Seller Initials

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Purchaser Initials





ADDENDUM



ADDENDUM No. _____ TO CONTRACT dated: _____ ("Contract")
between _____
_____ ("Seller")
and _____
_____ ("Purchaser")
regarding: _____ ("Property").

The Parties agree that the following additions and/or modifications are hereby made to the Contract:

- A1. MODIFICATION AND RATIFICATION.** The Parties agree that the additions and/or modifications in this Addendum are hereby made to the Contract and/or prior Addendum(s), if applicable, and all other terms and conditions of the Contract and prior Addendums, if any, remain in full force and effect. In the event of a conflict between the provisions of this Addendum and any provision of the Contract or of any prior Addendum(s), the provisions of this Addendum shall control.
- A2. CHANGES.** *(List any additions or modifications below):*

_____	_____	_____	_____
Seller	Date	Purchaser	Date
_____	_____	_____	_____
Seller	Date	Purchaser	Date
_____	_____	_____	_____
Seller	Date	Purchaser	Date
_____	_____	_____	_____
Seller	Date	Purchaser	Date



AGRICULTURAL DISTRICT RIDER



RIDER TO CONTRACT dated: _____ ("Contract")
 between _____
 _____ ("Seller")
 and _____
 _____ ("Purchaser")
 regarding: _____ ("Property").

The Parties agree that the following additions and/or modifications are hereby made to the Contract:

ADR1. AGRICULTURAL DISCLOSURE. Purchaser is given the following notice: "It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors. Prospective residents are also informed that the location of property within an agricultural district may impact the ability to access water and/or sewer services for such property under certain circumstances. Prospective purchasers are urged to contact the New York State Department of Agriculture and Markets to obtain additional information or clarification regarding their rights and obligations under article 25-AA of the Agriculture and Markets Law."

ADR2. SURVIVAL. The provisions of this Agricultural District Rider shall survive for 2 years after the Closing.

ADR3. PURCHASER ACKNOWLEDGMENT. Purchaser acknowledges that Purchaser has received and read this notice.

_____	_____	_____	_____
Seller	Date	Purchaser	Date

_____	_____	_____	_____
Seller	Date	Purchaser	Date

_____	_____	_____	_____
Seller	Date	Purchaser	Date

_____	_____	_____	_____
Seller	Date	Purchaser	Date

ADDENDUM SYSTEM DATABASE CLAUSES

Seller Name Change	Paragraph 1(A) is hereby amended to change the name of the Seller to read:
Purchaser Name Change	Paragraph 1(B) is hereby amended to change the name of the Purchaser to read:
Seller Address Change	Paragraph 1(A) is hereby amended to change the address of Seller to read:
Purchaser Address Change	Paragraph 1(B) is hereby amended to change the address of Purchaser to read:
Purchase Price Change	Paragraph 4 is hereby amended to change the Purchase Price to read: \$_____.
Seller's Contribution Change	The Seller's Contribution in Paragraph 4(A) is hereby amended to read: \$_____.
Cap Electrical Wires	Seller shall properly cap the electrical wires after Seller removes the _____.
Repairs after Removal of Excluded Items	Seller shall properly repair the _____ after Seller removes the _____.
Property Inspection Period Date Change	Paragraph 9(A) is hereby amended to reflect that the Property Inspection <i>and</i> any notice of unsatisfactory results shall be completed within _____ days after the Effective Date.
Licensed Repairman Required	A licensed _____ shall complete the repairs set forth in Paragraph(s) _____.
Repair Reinspection Contingency	This Contract is contingent upon all listed repairs being inspected and approved by Purchaser's Property Inspector by _____, 20_____.

<p>Systems That Cannot Be Inspected</p>	<p>As of Purchaser's Final Inspection and Closing, Seller shall have the following in working order, or deposit the indicated amount of funds in escrow:</p> <p><input type="checkbox"/> Air Conditioning: <input type="checkbox"/> in working order; or <input type="checkbox"/> escrow \$ _____</p> <p><input type="checkbox"/> Septic system: <input type="checkbox"/> in working order; or <input type="checkbox"/> escrow \$ _____</p> <p><input type="checkbox"/> Pool and related equipment: <input type="checkbox"/> in working order; or <input type="checkbox"/> escrow \$ _____</p> <p><input type="checkbox"/> Hot tub and related equipment: <input type="checkbox"/> in working order; or <input type="checkbox"/> escrow \$ _____</p> <p><input type="checkbox"/> Other: _____: <input type="checkbox"/> in working order; or <input type="checkbox"/> escrow \$ _____</p> <p>If any escrow is selected, either Party may cancel the Contract if the terms of any escrow agreement are not agreed upon by the Parties' attorneys by _____.</p>
<p>Loan #1 Change</p>	<p>Paragraph 10(B)(1)(a) is hereby amended to read:</p> <p><input type="checkbox"/> (a) First Loan:</p> <p>(i) Loan Amount: Not to exceed <input type="checkbox"/> \$ _____; or <input type="checkbox"/> _____% of the Purchase Price, plus, if applicable, Private Mortgage Insurance ("PMI"), Mortgage Insurance Premium ("MIP") or VA Funding Fee.</p> <p>(ii) Loan Type: <input type="checkbox"/> <i>Conventional Conforming</i>; <input type="checkbox"/> <i>Conventional Non-Conforming</i>; <input type="checkbox"/> <i>FHA</i>; <input type="checkbox"/> <i>VA</i>; <input type="checkbox"/> <i>SONYMA</i>; <input type="checkbox"/> Other: _____ ("Conventional Conforming" if blank)</p> <p>(iii) Loan Term: <input type="checkbox"/> 30 year; <input type="checkbox"/> 20 year; <input type="checkbox"/> 15 year; <input type="checkbox"/> _____ year ("30 year" if blank).</p> <p>(iv) Interest Rate: (Reference to "prevailing" rate is not permissible.) ("fixed rate" if blank) <input type="checkbox"/> a fixed rate not to exceed _____% per year for a fixed rate loan, or; <input type="checkbox"/> an initial interest rate not to exceed _____% for an adjustable rate loan.</p>

Loan #2 Change	<p>Paragraph 10(B)(1)(b) is hereby amended to read:</p> <p><input type="checkbox"/> (b) Second Loan/Grant: _____ year <input type="checkbox"/> <i>Fixed Rate</i> <input type="checkbox"/> <i>Adjustable Rate</i> loan/grant in an amount not to exceed \$ _____; or <input type="checkbox"/> _____ % of the Purchase Price with an interest rate (initial or fixed) not to exceed <input type="checkbox"/> _____ %.</p>
Loan Fee Change	<p>Paragraph 10(B)(2) of the Contract is hereby amended to show the Purchaser's loan fee as _____:</p>
Loan Commitment Due Date Change	<p>The Loan Commitment Due Date referred to in Paragraph 10 (B)(3) is hereby amended to read:</p>
Closing Date After Removal of Replacement Housing Contingency	<p>Paragraph 14 (A)(2)(iii) is hereby amended to read as follows: "Seller's removal of Replacement Housing Contingency."</p>
Closing Date Change	<p>Paragraph 14 (A) of the Contract is hereby amended to change the Contract Closing Date to:</p>
Time is of the Essence	<p>Paragraph 14(A) is hereby amended to state that Time is of the Essence for the Contract Closing Date.</p>
Transferable Warranty from Seller	<p>Prior to Closing, Seller shall provide Purchaser with a transferable warranty for the _____.</p>
Release of Replacement Housing Contingency	<p>Seller hereby releases the Replacement Housing Contingency.</p>

Replacement Housing Contingency	<p>This Contract is contingent upon Seller entering into a binding written contract for the purchase of suitable replacement housing and the satisfaction or waiver of any attorney approval and property inspection contingencies in said contract by _____, 20__ (the "Replacement Housing Contingency"). In the event Seller does not satisfy or waive the Replacement Housing Contingency by this date, either Party may cancel the Contract.</p>
Post-Closing Occupancy	<p>Seller shall have the option to remain in possession of the Property for a period of _____ days after closing, but no later than _____. During Seller's period of post-closing occupancy, Seller shall pay all utilities, shall maintain fire and liability insurance, shall maintain the Property and shall pay daily rent [of \$_____] [equal to 1/30th of Purchaser's entire monthly mortgage payment, including principal, interest, taxes and all insurance (even if not included in Purchaser's monthly mortgage payment)]. The Parties shall execute a Post-Closing Occupancy Agreement as agreed upon by the attorneys for both Seller and Purchaser which shall contain the above-stated terms and a \$_____ security deposit for damage and removal costs. The terms and conditions to be included in the Post Closing Possession Agreement referred to above may include terms and conditions in addition to those contained in this Paragraph as mutually agreed upon by the attorneys for the Parties acting in good faith.</p>
Sale Contingency Date Change	<p>The Contingency Expiration Date referred to in Paragraph SCR1 of the Contract is hereby amended to read:</p>
Lead Based Paint Inspection Contingency Release – No Issues	<p>Purchaser hereby releases the Lead Based Paint Inspection Contingency created in Paragraph LBR5(B).</p>
Lead Based Paint Inspection Contingency Release – Repairs	<p>Purchaser hereby releases the Lead Based Paint Inspection Contingency created in Paragraph LBR5(B). In consideration for Purchaser's release, Seller will, prior to Purchaser's Final Inspection, take the following action and make the following repairs in a good and workmanlike manner at no cost to Purchaser:</p>
Blank Paragraph Change	<p>Paragraph _____ is hereby amended to read:</p>



CANCELLATION AND RELEASE



**When signed, this document becomes legally binding on you.
Do not use this document when the Brokers have reserved a claim
for Commissions or if either Party reserves a claim against
any Broker or Party. Please consult your attorney.**

CANCELLATION AND RELEASE of Contract dated: _____ ("Contract")
between _____ ("Seller")
and _____ ("Purchaser")
regarding: _____ ("Property").

Seller and Purchaser desire to cancel the Contract and release each other, the Brokers and Escrow Agent from any claims arising under the Contract. Brokers desire to release Seller, Purchaser and Escrow Agent from any claims for Commissions, fees and expenses and any claims relating to the Contract. All capitalized terms that are not defined in this Cancellation and Release shall have the meaning provided in the Contract.

NOW, THEREFORE, for good and valuable consideration, including without limitation, the mutual promises contained in this Cancellation and Release, it is agreed as follows:

1. The Contract is hereby cancelled.
2. Notwithstanding any provision in the Contract, the Parties hereby release each other, Escrow Agent and Brokers from all actions, causes of action, agreements, promises, damages, judgments, losses, liabilities, claims and demands whatsoever and however described, which each may now or hereafter can, shall or may have, whether at law or in equity, in connection with, arising out of, or otherwise relating to the Contract, or pursuant to any listing or agency agreement in connection with or otherwise relating to the Contract.
3. Brokers will not charge any Commissions, fees or expenses in connection with the Contract. Brokers hereby release Seller, Purchaser and Escrow Agent from all actions, causes of action, agreements, promises, damages, judgments, losses, liabilities, claims and demands whatsoever and however described, which each may now or hereafter can, shall or may have whether at law, in equity or pursuant to any listing or agency agreement, in connection with, arising out of, or relating to the Contract, the transaction contemplated by the Contract or any cancellation of the Contract. The listing agreement with respect to the Property shall otherwise remain in effect, unless it has expired by its terms or has been terminated.
4. Upon receipt of a fully executed Cancellation and Release (including all counterparts, if any), Escrow Agent shall promptly (i) deliver copies of the fully executed Cancellation and Release to Brokers, if any, and to the attorneys for the Parties, or to the Parties if no attorney is identified, and (ii) refund and deliver the Deposit(s) as follows:
\$ _____ to: _____
\$ _____ to: _____
5. This Cancellation and Release: (i) may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together, shall constitute one and the same instrument, and shall be binding upon each of the undersigned as fully and completely as if all had signed the same instrument; and (ii) shall be effective when Escrow Agent receives a fully executed copy. Delivery and receipt shall have the same meaning as provided in Paragraph ATC 13.
6. This Cancellation and Release shall be binding upon and inure to the benefit of the parties identified below and the Escrow Agent, and their heirs, personal representatives, successors and assigns.
7. Nothing in this Cancellation and Release shall affect any right or obligation under Paragraph ATC 2(D) or the last sentence of Paragraph ATC 11(B).

Seller _____ Date _____ Purchaser _____ Date _____

Seller _____ Date _____ Purchaser _____ Date _____

Seller _____ Date _____ Purchaser _____ Date _____

Listing Real Estate Broker

Selling Real Estate Broker

By: _____ Date _____ **36** By: _____ Date _____

Contract Cancellation Clauses

Prepared by: Nancy W. Saia
 Law Offices of Nancy W. Saia
 1925 Kensington Avenue near Harlem
 Buffalo, New York 14215
 (716) 832-1118 · Fax (716) 832-7074 · Nancy@lawsaia.com

<u>Paragraph Number</u>	<u>Clause</u>	<u>Who Can Cancel</u>	<u>When Can Cancel</u>
4(B)(2)	If Purchaser's Deposit is not received w/in 3 BDs after due	Seller	Once overdue, anytime before receipt
<p>The Deposit and any additional deposit paid pursuant to this Contract, if applicable (collectively "Deposits"), shall be deposited by Escrow Agent with the Bank within 5 Business Days following receipt. Escrow Agent will promptly notify Seller's attorney if any Deposits are not received on time. In the event any of the Deposits are not received by Escrow Agent within 3 Business Days after payment is due, Seller may cancel this Contract at any time prior to Escrow Agent's receipt of whichever of the Deposits was past due.</p>			
7(B)	Contingency for Sale of Purchaser's Property (See Sale Contingency Rider Below)		
7(C)	Contingency for Closing of Sale of Purchaser's Property	Either Party	After termination of Purchaser's sale or 10 BDs After Contract Closing Date

(C) Closing Contingency. This Contract is contingent upon the closing of the sale of Purchaser's real estate located at _____ ("Purchaser's Property"). Yes No
 If yes, either Party may cancel this Contract following any material breach, termination or cancellation of the contract for Purchaser's Property or upon proof that the closing of the sale of Purchaser's Property has not occurred within 10 Business Days after the Contract Closing Date (as defined in Paragraph 14(A)). Purchaser shall notify Seller within 3 Business Days following any material breach, termination or cancellation of the contract for Purchaser's Property.

<u>Paragraph Number</u>	<u>Clause</u>	<u>Who Can Cancel</u>	<u>When Can Cancel</u>
9(A)(4)	If Property Inspection is unsatisfactory for any reason and if notice was received by Seller's attorney before the expiration of the Property Inspection Period	Either Party	Anytime after notice

(4) Notice of Results and Right to Cancel Contract. If the results of the Property Inspection are not satisfactory to Purchaser for any reason whatsoever, **and** if notice of the unsatisfactory results of the Property Inspection **is received by Seller or Seller's attorney on or before the expiration of the Inspection Period**, either Party may cancel this Contract. The results need not be disclosed. If the notice under this Paragraph 9(A)(4) is not timely received by Seller or Seller's attorney, the Property Inspection Contingency is deemed waived by Purchaser.

10(B)(3)	If Loan Commitment is not issued by Loan Commitment Due Date	Either Party	Any time prior to Purchaser's acceptance of Loan Commitment
10(B)(3)	If Loan Commitment cancelled w/o fault of Purchaser	Either Party	Any time after LC cancelled

If a Loan Commitment within the terms set forth in Paragraphs 10(B)(1) through 10(B)(2) is not issued to and accepted by Purchaser by (choose either (a) or (b) below ("**(b)**" if both (a) and (b) blank)

(a) _____ [insert date]; or

(b) _____ ("**45**" if blank) days after the later of (1) the Effective Date; or (2) satisfaction or waiver of the latest of any applicable (i) Sale Contingency, (ii) Investigation Contingency, or (iii) _____ ("Loan Commitment Due Date"), either Party may cancel this Contract at any time prior to Purchaser's acceptance of a Loan Commitment on terms the same as or different than those set forth in Paragraphs 10(B)(1) through 10(B)(2). Either Party may cancel this Contract if a Loan Commitment is granted but later cancelled without fault on the part of Purchaser. Purchaser shall promptly notify Seller of any Loan Commitment cancellation.

12(A)(3)	If Purchaser finds that any restriction, easement or right of way is inconsistent with Intended Use or Intended Improvement	Purchaser	Within 7BDs after receipt of copies of easements, restrictions, etc. and survey
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(3) If any Intended Uses or Intended Improvements, different from the Current Uses/Improvements, are listed in subparagraphs (1) and/or (2) above, within 10 Business Days after the Effective Date, Seller will provide Purchaser with a copy of Seller's existing survey map and of all restrictions, easements and rights of way affecting the Property as is or should be disclosed in the Search and/or Survey. If Purchaser finds that any restriction, easement or right of way is inconsistent with any of the above-stated Intended Uses or Intended Improvements, then Purchaser may cancel this Contract within 7 Business Days after receipt of (i) a copy of Seller's existing survey map or, if not available, the Survey, and (ii) a copy of all restrictions, easements and rights of way required to be provided by Seller under this Paragraph 12(A)(3).

<u>Paragraph Number</u>	<u>Clause</u>	<u>Who Can Cancel</u>	<u>When Can Cancel</u>
12(D)	If there is a Condition Defect and/or Corrective Fault that Seller will not correct (Seller can only refuse if Seller ordered and paid for application as required in Paragraph 12(C)(1)) and Purchaser will not accept Property without these corrections	Either Party	Any time after Purchaser does not elect to accept Property without corrections

(D) Objections. If Purchaser gives Seller notice of valid objection to the legal status or legal use of any of the structures or other improvements located on the Property ("Condition Defects"), or if Seller receives notification from the applicable governmental authority that there is any problem which needs to be corrected before any one or more of the Certificates/Approvals can be obtained ("Corrective Faults"), Seller shall, at Seller's expense, correct the Condition Defects and Corrective Faults, and have all necessary governmental inspections completed, prior to the Contract Closing Date. However, Seller may, within 10 Business Days following receipt by Seller or Seller's attorney of a notice of Condition Defects, a notice that Corrective Faults must be corrected, and/or a notice that an inspection cannot be conducted due to weather conditions, governmental delays or governmental policies, notify Purchaser that Seller will not (i) correct the Condition Defects and/or Corrective Faults, and/or (ii) obtain one or more Certificates/Approvals (a "Non-Correction Notice") provided Seller has timely complied with Seller's obligations under Paragraph 12(C)(1), if applicable. If, within 10 Business Days following receipt by Purchaser or Purchaser's attorney of a Non-Correction Notice, Purchaser does not elect to accept the Property and Included Items subject to the Condition Defects and Corrective Faults and without Certificates/Approvals which cannot be obtained, either Party may cancel this Contract. Nothing in this Paragraph 12 is intended to affect the rights of Seller or Purchaser under General Obligations Law Section 5-1311, or as otherwise provided under this Contract.

18(A) If all Parties do not initial Paragraph 18(A) Contract is Void Automatically Void

Receipt and Release. By initialing below, the Parties acknowledge having received and reviewed the attached ATC. **This Contract shall be void if all Parties do not acknowledge below that they received the ATC.**

ATC1(A) If either attorney disapproves the Contract Either Attorney Within 3 BDs of attorney's receipt of Contract

ATC1(A) If either attorney conditionally approves Contract Either Party Any time before the conditions are waived or satisfied

If either Party's attorney disapproves this Contract before the end of the Approval Period, this Contract is deemed cancelled. The reason for the disapproval need not be disclosed. If either Party's attorney conditionally approves this Contract before the end of the Approval Period, either Party may cancel this Contract at any time prior to unconditional approval of this Contract by the attorneys for both Parties.

<u>Paragraph Number</u>	<u>Clause</u>	<u>Who Can Cancel</u>	<u>When Can Cancel</u>
ATC1(B)	If either attorney disapproves or conditionally approves any Addendum (Cancels ONLY Addendum. However, if PINA2(C) or (D) selected, cancels entire Contract)	Either Party	Within 3 BDs of attorney's receipt of Addendum
ATC5(E)	If Seller cannot cure Title Defects or obtain Owner's Policy	Purchaser	Any time after receipt of Seller's demand to accept title as-is
ATC5(E)	If Purchaser does not elect to accept title as-is w/in 3 BDs after Purchaser receives Seller's demand	Seller	Any time after Purchaser fails to elect to accept title as-is
LBPR5(B)	If the results of the Lead Paint Inspection are unsatisfactory	Either Party	Any time after Purchaser's notice of unsatisfactory results

If either Party's attorney disapproves the Addendum before the end of the Addendum Approval Period, the Addendum is deemed cancelled (the reason for disapproval need not be disclosed), but this Contract shall remain in full force and effect, except (i) if either Party's attorney conditionally approves or disapproves an Addendum incorporating changes to this Contract upon which either Party's attorney's approval was conditioned, the attorney's conditional approval shall not be deemed satisfied or waived by the execution of the Addendum by all Parties; and (ii) if either Party's attorney disapproves a Property Inspection Notice and Addendum ("PINA") in which either PINA2(C) or PINA2(D) is selected, either Party may cancel this Contract. If, following unconditional approval of this Contract pursuant to ATC1(A), either Party's attorney conditionally approves an Addendum before the end of the Addendum Approval Period, either Party may cancel the Addendum at any time prior to unconditional approval of the Addendum by the attorneys for both Parties, but this Contract shall remain in full force and effect.

(E) Contract Termination. If Seller cannot cure all Title Defects within the time period provided in Paragraph ATC5(B) and if an Owner's Policy insuring over the Title Defects cannot be obtained in accordance with Paragraph ATC5(B), (i) Purchaser may cancel this Contract, (ii) Purchaser may elect to accept title as Seller can convey, or (iii) Seller may cancel this Contract if Purchaser fails to elect to accept such title within 3 Business Days after Purchaser receives a demand by Seller to accept title to the Property.

(B) This Contract is contingent upon a risk assessment or inspection of the Property for the presence of lead-based paint and/or lead-based paint hazards being obtained by Purchaser at Purchaser's expense within 10 days after the Effective Date ("Lead Paint Inspection Period"). The results must be satisfactory to the Purchaser ("Lead-Based Paint Inspection Contingency"). If the results of such inspection are unacceptable to Purchaser for any reason whatsoever, Purchaser shall notify Seller within 2 Business Days after the end of the Lead Paint Inspection Period, together with a copy of the inspection and/or risk assessment report. In such case, either Party may cancel this Contract.

<u>Paragraph Number</u>	<u>Clause</u>	<u>Who Can Cancel</u>	<u>When Can Cancel</u>
CHAR3(A)	If the Organization Documents are unsatisfactory	Purchaser	By the later of 5 BDs from date of receipt of Organizational Documents or end of Attorney Approval

(A) Declaration, By-Laws and Rules. If not provided already, Seller shall, within 10 days after the Effective Date, provide Purchaser with copies of documents relating to the Condominium and/or Homeowners' Association, as follows: (i) the recorded declaration(s) creating the Condominium and/or Homeowners' Association ("Declaration"); (ii) all amendments to the Declaration; (iii) the current by-laws, rules, regulations and the most recent annual financial statement certified by the Board of Directors or Board of Managers of the Condominium and/or Homeowners' Association ("Board") or its authorized managing agent ("Managing Agent"); and (iv) a certification from, as applicable, the Board or Managing Agent stating whether there are any special assessments presently under consideration (collectively, the "Organization Documents"). If the Organization Documents are not acceptable, Purchaser shall have until the later of (aa) 5 Business Days from the date of receipt of the Organization Documents, or (bb) the end of the Approval Period, to cancel this Contract.

RPR4	If any lease provisions are unacceptable to Purchaser	Purchaser	Within 5 BDs after Purchaser's receipt of copies of leases
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LEASES. In the event the Property is subject to lease(s) or rental agreement(s) ("Leases"), this Contract is contingent upon Purchaser's approval of the Leases within 5 Business Days after receipt by Purchaser of complete copies of all signed Leases and all amendments ("Lease Review Period"). During the Lease Review Period, if any material provision of any of the Leases is unacceptable to Purchaser, Purchaser may cancel this Contract. In the event Purchaser does not notify Seller of an objection during the Lease Review Period, Purchaser shall be deemed to have waived the right to cancel this Contract pursuant to this Paragraph.

SCR3	If Purchaser does not sell Purchaser's Property or prove Purchaser can obtain mortgage without sale or prove that Purchaser can close without financing by Contingency Expiration Date	Either Party	Any time after earlier of Contingency Removal Date or Contingency Expiration Date
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FAILURE TO SATISFY CONTINGENCY. If this contingency is not satisfied by delivery of notice and proof as specified in Paragraph SCR1 by the earlier of the Contingency Removal Date or the Contingency Expiration Date, either Party may cancel this Contract.

<u>Paragraph Number</u>	<u>Clause</u>	<u>Who Can Cancel</u>	<u>When Can Cancel</u>
LAR2	If the Loan Documents to be assumed are not acceptable to Purchaser	Purchaser	Within 5 BDs after receipt of Loan Documents

LOAN DOCUMENT REVIEW. If not already provided, Seller shall provide Purchaser, within 10 days following the Effective Date, complete copies of the following loan documents (collectively, the "Loan Documents"): (i) the note evidencing the loan, (ii) the mortgage given to secure the note which encumbers the Property as recorded in the County Clerk's Office, (iii) all amendments, extensions, consolidations, renewals, modifications, substitutions, spreaders and replacements of each of the obligations to be assumed by Purchaser, and (iv) all other material agreements relating to the loan. The copies provided by Seller shall be certified by Seller to Purchaser to be true and complete copies. If any of the Loan Documents are not acceptable to Purchaser, Purchaser may cancel this Contract within 5 Business Days following Purchaser's receipt of the Loan Documents.

LAR3	If the consent of the holder of the note to be assumed is not received by date in LAR3	Purchaser	Any time before Purchaser's receipt of assumption approval
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LAR3	If the loan assumption approval is at an interest rate in excess of the selected rate	Purchaser	Any time after rate disclosed
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NOTE HOLDER'S CONSENT. Seller shall promptly provide Purchaser with the name, address and telephone number of the note holder or loan servicer to be assumed, the loan number and any other relevant information. Provided the Loan Documents so require, Purchaser shall promptly and in good faith make application for approval to assume the loan. If the consent of the note holder or loan servicer to assume the loan is required and not obtained by _____, either Party may cancel this Contract at any time prior to Purchaser's receipt of approval to assume the loan. If, by the above date, consent to the assumption is given only at an annual interest rate in excess of _____% Purchaser may cancel this Contract.

VLR4(D)	If any results of Investigations are unacceptable to Purchaser and if notice was received by Seller's attorney before the expiration of the Property Investigation period	Either Party	Any time after notice
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Right to Cancel Contract. If the results of any Investigations are unacceptable to Purchaser for any reason, Purchaser shall notify Seller or Seller's attorney in writing (the results need not be disclosed). In such case, either Party may cancel this Contract. **Purchaser's notice of unacceptable results *must be received by Seller or Seller's attorney before the expiration of the Investigation Period.*** If Purchaser's notice of unacceptable results is not received by Seller or Seller's attorney before the end of the Investigation Period, this contingency is deemed waived by Purchaser.

Notices, Demands and Objections (ATC12) must be:

- in writing
- “delivered”
- to Address in Paragraph 1 (unless otherwise advised)
- may be given by attorney
- sometimes **required** to also be given to other Party (**ALWAYS for cancellations**)

ATC12. NOTICES.

(A) Addresses. All notices, demands and objections given under this Contract shall be **in writing and delivered** in accordance with Paragraph ATC13, except as provided in Paragraph ATC11(D)(3). Any notice to be delivered to Seller or Purchaser or Escrow Agent, other than those personally delivered, shall be delivered to Seller’s, Purchaser’s or Escrow Agent’s address listed in this Contract, unless such Party has given notice to the other Parties of different address.

(B) Notice by Attorney. Any notice or objection to be given to or demand of Seller which may be made by Purchaser under this Contract may be given or made by Purchaser or on behalf of Purchaser by Purchaser’s attorney to Seller’s attorney **with a copy to Seller** of only any notice of cancellation, notice declaring time of the essence or notice of satisfaction of any Sale Contingency. Any notice or objection to be given to or demand of Purchaser which may be made by Seller under this Contract may be given or made by Seller or on behalf of Seller by Seller’s attorney **with a copy to Purchaser** of only any notice of cancellation, notice declaring time of the essence or notice of acceptance of a Subsequent Agreement (as defined in Paragraph SCR2), if applicable.

Cancellation (ATC10):

- must be by notice
- if valid, all Parties must sign Release within 7 Business Days of receipt

ATC10. CANCELLATION. Any cancellation made under any Paragraph of this Contract, other than Paragraph ATC1(A), shall be made by notice by the cancelling Party to the other Party (“Cancellation Notice”). The Cancellation Notice must state the reason for the cancellation and a copy of the Cancellation Notice must be delivered to the Escrow Agent and **should** be delivered to the Brokers. If the cancelling Party delivers a Cancellation Notice to the other Party and Escrow Agent and if a notice by the other Party objecting to the cancellation of this Contract (“Cancellation Objection Notice”) is not received by the cancelling Party and Escrow Agent within 10 days following their receipt of a Cancellation Notice, or if this Contract is cancelled under Paragraph ATC1(A), this Contract shall automatically terminate upon that event, the Deposits shall be returned to Purchaser and neither Party nor the Brokers shall have any rights or obligations arising out of this Contract (other than obligations under this Contract that are intended to survive any cancellation or termination).

- must return Search and Survey within 7 Business Days of cancellation

ATC2(D) Return on Cancellation. In the event this Contract is cancelled pursuant to any of its terms, Purchaser shall have the Search and Survey returned to Seller or Seller’s attorney within 7 Business Days after receipt of a notice of cancellation.

- if valid cancellation, eliminates the obligation to pay Broker's Commissions
- **(B) Brokers' Commissions.** The Brokers brought about this sale and, if this Contract is not validly cancelled by either Party, the Parties shall pay the entire compensation to the Brokers in accordance with their respective written agreements unless the Closing does not take place through no fault of the Party owing the compensation ("Commissions").

Return of Deposits (ATC11(D)):

- automatic to Purchaser if either attorney disapproves Contract - No Release needed
- according to signed Release
- according to final, non-appealable court order
- pursuant to "Notice of Intention" to release Deposits

(D) Return of Deposits. Except as otherwise provided in this Contract, Escrow Agent, in its capacity, is not subject to the unilateral direction of any Party with respect to the return of Deposits after cancellation. If this Contract is cancelled under Paragraph ATC1(A), Escrow Agent shall return the Deposits to Purchaser within 5 Business Days following Escrow Agent's receipt of a notice of disapproval or cancellation. If this Contract is cancelled under any other Paragraph in accordance with Paragraph ATC10, Escrow Agent shall return the Deposits to Purchaser within 14 days following Escrow Agent's receipt of a Cancellation Notice provided Escrow Agent did not timely receive a Cancellation Objection Notice. In all other cases, the Deposits shall be distributed by Escrow Agent to Seller or Purchaser as the case may be within 5 Business Days after the earliest of:

- (1) Escrow Agent's receipt of a mutual release (on a Bar Association approved form) executed and delivered by each of the Parties and Brokers to the others on terms agreed to by the Parties and Brokers that designates the manner in which the Deposits are to be distributed ("Release");
- (2) Escrow Agent's receipt of a copy of a final non-appealable court order which directs how the Deposits are to be distributed; or
- (3) The date designated by Escrow Agent in a Notice of Intention (as defined below) as the date by which written objections to the release of the Deposits must be received by Escrow Agent, provided no written objection is received by Escrow Agent by such designated date. A "Notice of Intention" is a notice given by Escrow Agent to the Parties and their respective attorneys of Escrow Agent's intention to distribute the Deposits to Seller or Purchaser, as the case may be, due to a cancellation or breach of this Contract. The Notice of Intention shall be delivered by certified mail, return receipt requested and a copy by first class mail at least 7 days prior to such designated date and shall specify to whom the Deposits shall be distributed and the amount to be distributed to each. Escrow Agent shall deliver a Notice of Intention within 3 Business Days following Escrow Agent's receipt of a written demand for same from a Party.
- (4) In the event Escrow Agent receives a written objection pursuant to Paragraph ATC11(D)(3) by the date designated in the Notice of Intention, Escrow Agent may thereafter deposit the Deposits with any New York State court in whose jurisdiction any part the Property lies and commence an interpleader action to determine the disposition of the Deposits ("Interpleader Action"). Each Party shall reimburse Escrow Agent one-half of all expenses incurred by Escrow Agent, including court costs and reasonable attorneys fees, arising out of the commencement and prosecution of the Interpleader Action unless the court directs a different allocation of Escrow Agent's expenses.

Buffalo Niagara Association of REALTORS® and Bar Association of Erie County Forms

Contract – (Residential Contract Rev 4/30/14)(13 pages: 8 page contract plus Additional Terms and Conditions)

Lead-Based Paint Rider and Disclosure (Rev 12/12/12)

Rented Property Rider (Rev 12/12/12)

Sale Contingency Rider (Rev 12/12/12)

Vacant Land Rider (Rev 12/12/12)

Loan Assumption Rider (Rev 12/12/12)

Seller Financing Rider (Rev 12/12/12)

Condominium/Homeowners' Association Rider (Rev 12/12/12)

Property Inspection Notice and Addendum (Rev 04/15/14)

Addendum (Rev 12/12/12)

Agricultural District Rider (Rev 12/12/12)

03/15/13

PLINYSRESERE

Michael M. Blinkoff, Esquire
Blinkoff & Blinkoff
1207 Delaware Avenue
Buffalo, New York 14209
(716) 332-6104

SURVEYS IN RESIDENTIAL TRANSACTIONS

- I.) What is a survey?
 - A.) Survey from French word "to look over". A surveyor's job is to take legal description of the property, locate where he thinks it is, "look over" what he finds, and map into a report.
 - B.) Survey Report is defined by standards:
 - 1.) Code of practice for land surveyors, New York State Association of Professional Land Surveyors (course book).
 - 2.) Jointly approved standards with Niagara Frontier Land Surveyors Association (Erie County Bar Association).
 - C.) Survey- scientific report or weighing of the evidence?
- II.) Analysis of a Survey:
 - A.) Plot the legal descriptions:
 - 1.) Does it match - legal description; tax description.
 - 2.) What variations and effects:
 - a.) Measured distance versus record distance.
 - b.) Angle variations.
 - c.) Beginning point variations.
 - 3.) Hierarchy - *Pauquette v. Ray*, 58 AD2d 950 (3rd Dept. 1977).
 - B.) Rights of Way and Easements of Record:
 - 1.) Sketched in.

- 2.) Usually labeled as to documentary basis.
 - 3.) Not shown.
- C.) Physical evidence of interest in the property.
- 1.) Utility pole.
 - 2.) Driveways.
 - 3.) Overhead wires.
 - 4.) Utility installations.
 - 5.) Manhole covers.
 - 6.) Drains.
 - 7.) Ponds, conduits.
 - 8.) Waterways.
 - 9.) Fences.
- D.) Date of Survey and Re-Survey.
- 1.) Affidavits of No-Change.
 - 2.) Clinton Affidavit – "I did not make any changes . . . "
- E.) Surveyors abbreviations (see table attached).
- F.) Local title standards (#34 - minor discrepancies).
- III.) The Survey from the Client's Point of View:
- A.) Locating Boundaries.
 - B.) Encroachments.
 - C.) Whose fence is it anyway - fence lines?
 - D.) What intentions:

- 1.) Garage.
 - 2.) Pool.
 - 3.) Deck.
- E.) Trees.
- F.) "Call to your client's attention" versus marketability versus let's just fight.

IV.) Examples and illustrations:

- A.) It's all in the Details.
- B.) Fences; ties.
- C.) Basic math & "Area in Controversy"
- D.) Interplay with Title Insurance
- E.) What neighbor?
- F.) ***Ahl v. Jackson*** – "Out of Possession – Gate Me"

EXHIBIT E
ABBREVIATIONS IN A SURVEY

APT.	Apartment	'	minute
Ave.	Avenue	mon.	monument
blk.	block	N.	North
BR.	Brick	N/F	Now or Formerly
C.I.P.	Cast Iron Pipe	opp.	opposite
C.B.	Catch Basin	Pcl	Parcel
⊕	Center Line	P.W.	Party Wall
cl.	clear	Pl.	Place
conc. Ret. Wall	Concrete Retaining Wall	PL	Property Line
cor.	corner	R.C.P.	Reinforced Concrete Pipe
o	degrees	Ret. w.	Retaining Wall
desc.	description	Rd.	Road
D.H.	Drill Hole	R.O.W.	Right of Way
E.	East	"	Seconds
El.	Elevation	S.M.H.	Sewer Manhole
encl.	encroachment	S.W.	Sidewalk
f.	fence	S.	South
F.E.	Fire Escape	st	stake or stone
found.	foundation	ST.	Street or Story
FR.	Frame	T.C.	Top of Curb
H. or Hdg.	Hedge	V.T.	Vitrified Tile
inv.	invert	w.	wall
I.P. Fd.	Iron Post Found	W.	West
I.P. & W.F.	Iron Post and Wire Fence		

Rev. - Receiver (drain-catch)

set - placed by surveyor

m&m - map and measure

r&m - record and measure

effective beginning
January 1, 1991

LAND SURVEY STANDARDS

**ADOPTED BY THE
NIAGARA FRONTIER
LAND SURVEYORS ASSOCIATION**

**I. DEFINITION OF SURVEY MAP FOR DEFINING
REAL PROPERTY BOUNDARIES:**

1. A survey map or plat is a drawing prepared under the supervision of a licensed land surveyor registered in the State of New York, which depicts the mathematical and physical features of a parcel of land with relation to map lines, deeds of record, and/or other pertinent reference data and is based upon an actual field survey performed under the supervision of the licensed land surveyor. The date of the survey or re-survey shown on the survey map or plat is the date the field crew finished at the survey site.

**II. POLICY GOVERNING PREPARATION
OF REAL PROPERTY SURVEYS:**

1. A survey map shall be prepared for and used only for a specific identified purpose. A survey map shall not be used for any other purpose unless it is brought up to date by the surveyor or the surveying firm which prepared the original survey. For a survey map to be considered valid, it must be prepared under the supervision of a licensed land surveyor registered in the State of New York. All true copies thereof must bear the land surveyor's signature and embossed seal. In all instances, original tracings of the surveyor's survey map shall remain the property, and in the possession of the surveyor. When completed, all surveys shall conform to the minimum standards set forth in this Code unless limitations or variances from such standards are clearly stated on the survey map.
2. New York State Education Law Section 7209 states that all plans, specifications, plats and reports prepared by a land surveyor or by a full time or part time subordinate under a land surveyors supervision shall be stamped with a seal and

shall also be signed on the original with the personal signature of the land surveyor when filed with public officials. This law also stipulates that a note shall be placed on all survey maps bearing a land surveyor's seal concerning the alteration thereof.

3. In order to implement the policy stated above, it is recommended that all survey maps bear the following notes:

"Only copies from the original of this survey map marked with an original of the land surveyor's embossed seal and signature shall be considered to be valid true copies."

"Unauthorized alteration or addition to a survey map bearing a licensed land surveyor's seal is a violation of section 7209, subdivision 2, of the New York State Education Law."

"Certifications indicated hereon signify that this survey was prepared in accordance with the Code of Practice for Land Surveys adopted by the New York State Association of Professional Land Surveyors, as amended by Niagara Frontier Land Surveyors Association." Said certifications shall run only to the party for whom the survey is prepared, and if requested on their behalf to the title company, governmental agency and lending institution listed herein and to the successors (by merger or operation of law) to the lending institution and the assignees of the lending institution. Certifications are not transferable to additional institutions or subsequent owners."

III. MINIMUM STANDARDS FOR REAL PROPERTY SURVEYS:

Surveys shall be prepared in accordance with the following minimum standards:

1. It shall be the responsibility of the client to define the purpose of the survey and to furnish the surveyor with the record description and all easements, rights-of-way, boundary line agreements and other relevant instruments affecting the land being surveyed, including the liber and page showing the recorded information, and all necessary reference descriptions including but not limited to those of adjoining properties. A current Abstract of the Title shall be furnished to the Land Surveyor when requested. Where necessary to clarify the determination of the location of a particular line, the reference used, whether it be a filed map, deed description or otherwise,

shall appear on the survey map. When an Abstract of Title is not requested or provided, a note shall be affixed to the survey map indicating that "This survey was prepared without the benefit of a current Abstract of Title and is subject to any state of facts that may be revealed by an examination of such."

2. The surveyor's field work shall be performed with a transit and steel tape, or other modern devices considered equal or superior. Irregular perimeter surveys shall be based on a closed balanced traverse and all surveys shall close mathematically. Measurements shall be in accordance with the United States Standard. Any deviation shall be noted, as in localities where a local Map Standard of Measurement is traditionally used; and where practical, a factor to convert to United States Standard shall be indicated on the map. The boundaries, as well as the lines of interior subdivisions, shall contain all the data necessary to establish the correctness of the mathematical figure represented by said lines; that is, angles must be given either directly or by bearings, and where curved, the radius and length of the curve shall be given. In those instances where curves are not tangent, additional information shall be given sufficient to form a closure.

Where necessary to properly locate the property surveyed in relation to adjoining properties, the distance to an intersecting street or streets shall be shown. Measured reference to the nearest intersecting street is required only when it is pertinent to the record description. Surveys of parcels within a large tract shall be related to one of the exterior lines of the tract, preferably by distance along a street. Specific reference to an adjoining property line being surveyed by deed liber and page is also deemed to be statement of contiguity. However, on surveys of large plots and acreage of farms, the listing of the names of adjacent reputed owners, whether or not set forth in the information provided by the client, are deemed to be given for information only and are not meant to imply contiguity, except where the record description of the adjoining property is stated on the survey map to be contiguous.

3. When the parcel surveyed is laid out on a filed map, the survey map must designate the filed map citation and the lots and blocks of the premises or parts thereof. In any case, when all or part of a parcel is or was shown on any other filed map or maps as affecting the title and disclosed to the surveyor, such lot, street and map lines shall be indicated or superimposed on the survey map.

4. A survey map shall give a clear presentation of the facts with due regard to the scale of the map. A supplementary or exaggerated diagram shall be provided where necessary. The North point, and meridian reference for bearings, shall be indicated. Where the bearing system used differs from the record description of the property surveyed, the meridian used shall be indicated, and if required for clarity, the bearing of each line based upon the record description system shall be shown parenthetically (with reference to the record document).
5. The character of physical evidence of possession must be stated and the location given in relation to the boundaries of the surveyed premises.
6. The character and location of all buildings upon the plot must be shown with their locations referenced to the boundary. Dimensions shall be shown as measured at right angles or radial as the case may be. (On acreage surveys, buildings remote to boundary lines must be plotted to scaled position). Apparent street numbers should be given whenever available. The area of the plot shall also be given when required.

All buildings or fences on adjoining lands within three (3) feet of the boundaries of the surveyed premises shall be shown and located, and encroachments of eaves, cornices, blinds, etc., noted.

7. Easements, rights-of-way, boundary line agreements and other relevant instruments affecting the land being surveyed, and provided by the client, shall be shown on the survey map.

Where found, or discovered at the time of the survey, physical evidence of possible easements that were not provided by the client shall also be indicated on the survey map.

Subsurface structures, where not visible, will not be shown or will be shown by record only, and indicated by the statement "not verified in field," and their location and extent will not be considered true unless verified.

If the premises was surveyed when covered with snow, vegetation, or other cover so that any of the above conditions might have been concealed, this fact shall be indicated on the survey map.

8. The nature, character and location of all walls (independent, party or otherwise) at or near boundary lines must be given, when accessible. Location of both sides of party walls shall be shown when accessible. If a building on the premises has no independent wall but uses any wall of the adjoining premises, this condition shall be shown and explained. The same requirements shall apply where conditions are reversed. Encroaching structural appurtenances and projections such as fire escapes, bay windows, flue pipes, stoops, areas, steps, trim, etc., by or on adjoining property or on abutting streets must be indicated if they are within three (3) feet of the property line with a notation of apparent encroachment. Openings such as windows, doors, etc. in walls and gates in fences, on premises surveyed or adjoining premises immediately adjacent to the boundary lines (other than street lines) must be shown.
9. Unless specifically contracted for, the surveyor is not responsible for identifying features which are under the jurisdiction of a governmental agency: designated wetlands, flood plains, flood ways, protected or endangered flora and fauna, archeological, historical, cultural, etc.
10. Where legal lines of a street right-of-way are established by a municipality they shall be shown. The width of the street right-of-way where established shall be shown. Where the physical location of a street right-of-way conflicts with the official right-of-way or legal line, the extent of the conflict shall be shown. Where there are no official lines of a street right-of-way established, the width, as physically open and in use, shall be shown. Alterations to the official right-of-way lines of a street, when shown on an official public map, shall be noted and the date of change and authority under which it was made shall be stated. If streets abutting the premises are not physically open, this fact shall be so stated.
11. When cemeteries or burial grounds are found or discovered at the time of the survey, they shall be shown and when a record of cemeteries or burial grounds is supplied, this information shall be noted.
12. Surveys of multiple parcels shall indicate apparent or discovered contiguity, gores or overlaps.
13. Monuments found or set shall be shown and described on the survey map with data given to show location with respect to the boundaries of the premises surveyed.

Where no monuments are evident or referenced they shall be set and shown as follows:

Every boundary monument or witness monument set shall:

- A. Be shown and described on the survey map.
- B. Be composed of a durable ferrous or magnetically detectable material. (Wood stakes are not considered to be permanent.) *

C. Have a:

Minimum inside diameter
for pipes: 1/2"

Minimum outside diameter
for rebar: 1/2"

Minimum length: 18"

- D. When a case arises due to physical obstructions so that neither a boundary monument nor a witness monument can be practicably set in accordance with (A) - (C) then alternative monumentation which is identifiable shall be established for this particular situation and so referenced on the survey map.

E. It is suggested that monuments have the surveyor's name and/or license number affixed thereto.

14. Joint or common driveways must be shown with the width indicated. Independent driveways along the boundary, if encroaching, must be shown together with the extent of such encroachment.

15. Subsequent to the initial issuance of a survey map all revisions shall be specifically noted and dated. Every resurvey map bearing a new date shall conform to the requirements of a new survey.

16. The Great Lot, Section, Township and Range, or other similar designation, shall be indicated on the survey map, where applicable.

17. If construction of any improvements shown on the survey map was apparently incomplete from exterior physical evidence at the time of the survey, this fact shall be listed on the survey.

18. If the property is vacant, the survey map shall so state.

19. All changes of, or additions to, the survey shall be made on the original survey map and no print containing superimposed changes or additions will be considered in accordance with these standards.

20. Typical Certifications For Residential Mortgage Purposes:

I/We hereby state to (Purchaser) (Title Insurance Company) (Lender), its successors and assigns, that in my/our professional opinion, this survey was prepared in accordance with the current Code of Practice for Land Surveys adopted by the New York State Association of Professional Land Surveyors, as amended by the Niagara Frontier Land Surveyors Association.

This certification does not extend to subsequent owners, mortgages, or title insurers, unless this survey has been resurveyed for this purpose by the surveyor.

21. Surveys ordered pursuant to these standards should be ordered on the order form attached to these standards.

13. Certify survey to: _____

(Note: If certifications are requested at a later date, an additional fee may be charged.)

14. References:

Survey should indicate location of the following easements, rights-of-way, etc., boundary lines, etc.

Liber/Page	Copy Enclosed	Set-Out Enclosed
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

Survey should show location of property in relation to lots on prior map cover no. _____

Survey should show location of property in relation to _____ a street which has been:

abandoned mapped, but not built street.

15. Additional information or special instructions

16. I (we) hereby agree to be responsible for payment for the above work within 60 days after the rendering of the survey services, unless stated otherwise on this form and agreed to by person or firm requesting survey and by surveyor.

PROPOSED TITLE STANDARD REVISIONS II: ENCROACHMENTS

Current Title Standard #34

HEDGE, FENCE, DRIVEWAY AND STEP ENCROACHMENTS:

Objection shall not be made on the sole basis of minor discrepancies of the following upon a survey map:

- A. Variations between property lines and retaining walls, fences, and/or hedgerows:
- B. Projection or encroachment of trees, shrubs, and/or bushes:
- C. Projection or encroachment of eaves:
- D. Encroachment by the driveway on the premises onto adjoining lands; or
- E. Encroachment of steps of improvement on premises into a public street or right of way.

Proposed Revision to Title Standard #34 (proposed revisions in bold)

HEDGE, FENCE, DRIVEWAY AND STEP ENCROACHMENTS:

Objection shall not be made on the sole basis of **de minimis** discrepancies of the following upon a survey map as **set forth in RPAPL § 543 provided the alleged property rights did not vest prior to the enactment of RPAPL § 543:**

- A. 1. Variations between property lines and retaining walls, fences, and/or hedgerows:

2. Projection or encroachment of trees, shrubs, **plantings** and/or bushes:
 3. Projection or encroachment of eaves:
 4. **Projection or encroachment of sheds and/ or non-structural walls;**
 5. Encroachment by the driveway on the premises onto adjoining lands; or
 6. Encroachment of steps of improvement on premises into a public street or right of way.
- B. **Objection shall not be made on the sole basis of acts of lawn mowing or similar maintenance across the boundary line of an adjoining landowner's property.**

Objection shall not be made on the sole basis of minor discrepancies of the following upon a survey map, which vested prior to the enactment of RPAPL § 543:

- A. **Variations between property lines and retaining walls, fences, and/or hedgerows:**
- B. **Projection or encroachment of trees, shrubs, and/or bushes:**
- C. **Projection or encroachment of eaves:**
- D. **Encroachment by the driveway on the premises onto adjoining lands; or**
- E. **Encroachment of steps of improvement on premises into a public street or right of way.**

Westlaw

58 A.D.2d 950

Page 1

58 A.D.2d 950, 397 N.Y.S.2d 442

(Cite as: 58 A.D.2d 950)

C

Melvin A. Pauquette et al., Appellants,

v.

Theresa A. Ray et al., Respondents

Supreme Court, Appellate Division, Third
Department, New York

July 28, 1977

Appeal from a judgment of the Supreme Court in favor of defendants, entered April 6, 1976 in Greene County, upon a decision of the court at a Trial Term, without a jury. Plaintiffs are the owners of a parcel of property in the Town of Coxsackie, Greene County, having acquired title in 1969 from one Edna Coyne. Edna Coyne was the grantee of herself and her husband James, the Coynes having acquired title from the Argentos, *951 defendants herein, in 1965. The parcel was sold off from a larger parcel which was owned by the Argentos, the latter retaining title to the remainder until 1967, when the Argentos conveyed property south of that owned by plaintiffs to their daughter and son-in-law, Theresa and Frank Ray, the other defendants herein. The plaintiffs' parcel is bounded on the north by the property of one Ondrek. This action was commenced by plaintiffs when it was discovered that there existed discrepancies between the actual physical layout of the land on the one hand and the deeds to the Coynes and subsequently to themselves on the other hand. It is the plaintiffs' contention that the defendants Ray have improperly claimed title to a strip of property at the southern end of the plaintiffs' parcel, to which plaintiffs seek to establish ownership, and that defendants Ray have encroached upon and trespassed upon plaintiffs' property, causing damage. After trial before the court without a jury, the complaint was dismissed. There is no disagreement among the parties as to the law governing the disposition of this case, and plaintiffs' sole contention upon appeal is that the decision of the trial court was contrary to

the evidence. The determinative finding to which they object is that the plaintiffs' property and its southerly and easterly boundary lines where it joins defendants' property, is as set forth on a map prepared by the defendants' surveyor. As previously noted, it is agreed on both sides that discrepancies exist between the deed description and ground features. The court properly held that such inconsistencies are to be reconciled by inquiring into the intention of the parties which existed at the time of the conveyance. Since the conveyance to the Coynes was prior in time to the conveyance to the Rays, plaintiffs being successors in interest to the Coynes, the intentions of the defendants Argento and the Coynes at the time of the conveyance between them is determinative. The deed describes the property basically as a rectangle which, beginning at its northwest corner, runs at a right angle to a specified road, a distance of 187 feet along the southern line of the Ondrek property, thence southerly at a right angle 277 feet, thence westerly at a right angle 187 feet to a stake forming a perpendicular with the aforesaid road, and then along said road at a right angle to the southerly line, a distance of 277 feet, to the place of beginning. There was voluminous testimony by the Coynes and the Argentos which the trial court was entitled to accept, being in a position to assess the credibility of the witnesses, to the effect that they had placed two metal stakes at the intended southwest and southeast corners, intending the south line to run between them. They then measured said south line, coming up with the figure of 187 feet, and also measured the intended west line along the road to a point which they assumed marked the southerly line of the Ondrek property, thereby coming up with the figure of 277 feet. They admitted that they did not know where the exact boundary of the Ondrek property lay, but emphatically stated that no conveyance south of the stakes was intended. These somewhat inexact measurements (although the south line does indeed measure 187 feet) form the basis for the deed description, although neither the

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58 A.D.2d 950

Page 2

58 A.D.2d 950, 397 N.Y.S.2d 442

(Cite as: 58 A.D.2d 950)

north nor the east lines were actually measured. Moreover, the west line was not a straight line since the road included some curvature, and more significantly, the north line (the south boundary of the Ondrek property) did not, as the witnesses had mistakenly assumed, run at a right angle to the road. Defendants' surveyor, whose conclusions have been accepted by the trial court, found the dimensions to be 187 feet on the north and south lines, but only 261.83 feet on the west line and only 243.75 feet on the east line. The plaintiffs submitted evidence tending to show an intent to actually convey a parcel with dimensions as set forth in the deed, *952 but this merely created a question of fact for the trier thereof. It has been stated, where there is a discrepancy such as is presented in the instant case, that "other things being equal, resort is to be had first to natural objects or landmarks, next to artificial monuments, then to adjacent boundaries, then to courses and distances, and lastly to quantity. ... In other words ... quantities yield to natural or artificial objects or monuments" (6 NY Jur, Boundaries, § 53). Here there was testimony, as previously summarized, as to the existence of artificial monuments intending to determine the southern boundary of plaintiffs' property and defendants' surveyor further testified that this was the rule which he followed in preparing his map. We are therefore of the conclusion that the findings of the trial court must be affirmed. Since the causes of action for encroachment, trespass and the like were all dependent upon a finding that plaintiffs were entitled to judgment in their favor on their first cause of action, these causes were properly dismissed.

END OF DOCUMENT

Judgment affirmed, without costs.

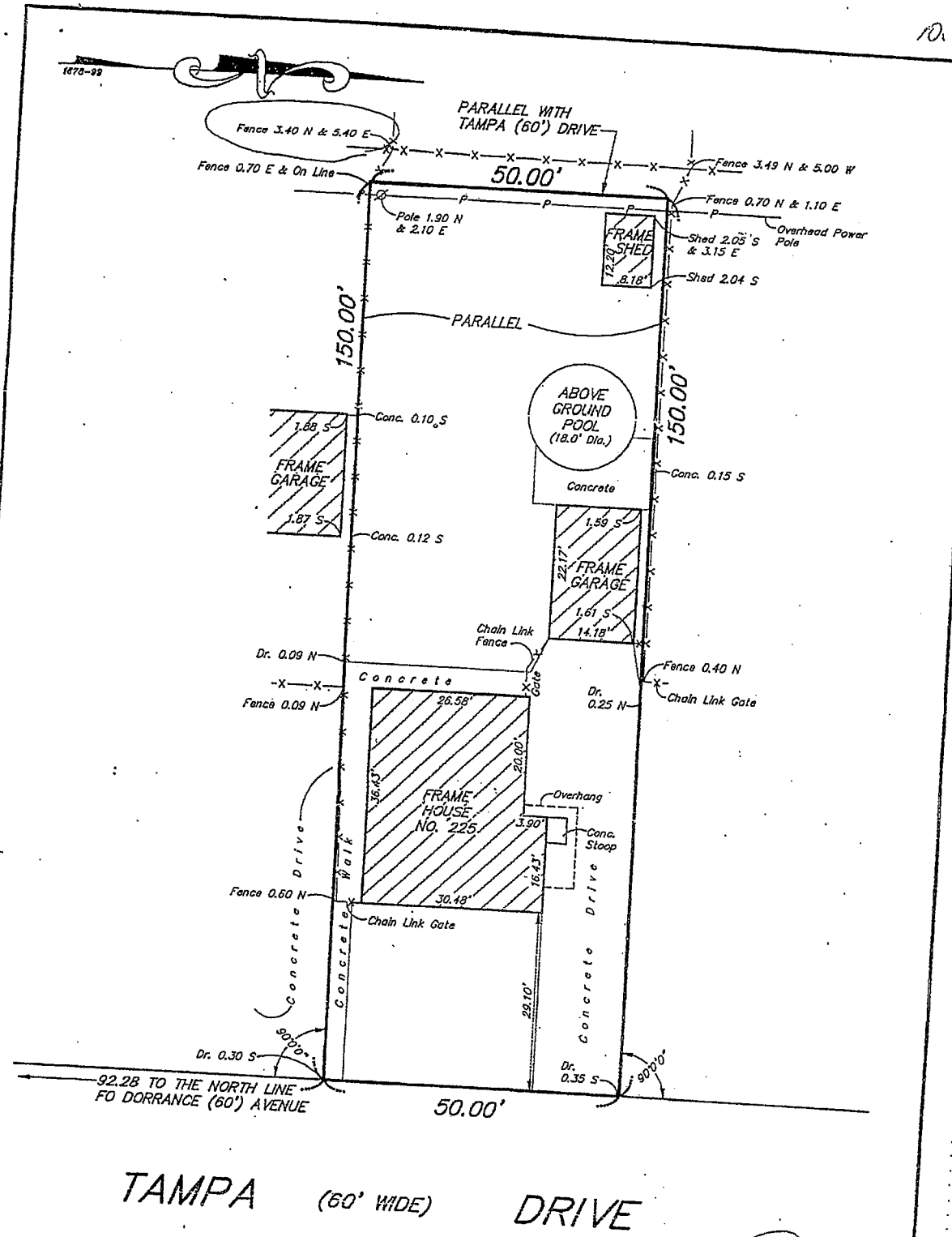
Koreman, P. J., Greenblott, Main, Larkin and Herlihy, JJ., concur.

Copr. (c) 2005, Randy A. Daniels, Secretary of State, State of New York.

N.Y.A.D., 1977.

PAUQUETTE V RAY

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DOCUMENT(S) UTILIZED IN DETERMINING LOCATION OF BOUNDARY LINES: L.10880 P.720
 THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED IN SAID ABSTRACT.
 PROPERTY CORNER MONUMENTS WERE NOT PLACED AS PART OF THIS SURVEY.

EVERY CERTIFY TO: Michael R. Wyszynski Esq. (CLIENT)
 IF THIS SURVEY MAP WAS PREPARED IN ACCORDANCE
 WITH THE CURRENT STANDARD FOR LAND SURVEYS ADOPTED
 BY THE STATE BAR ASSOCIATION, THIS CERTIFICATION
 NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OTHER
 THAN STATED ABOVE.

Millard & Mac Kay
 MILLARD & MAC KAY NYSPLS No. 49085

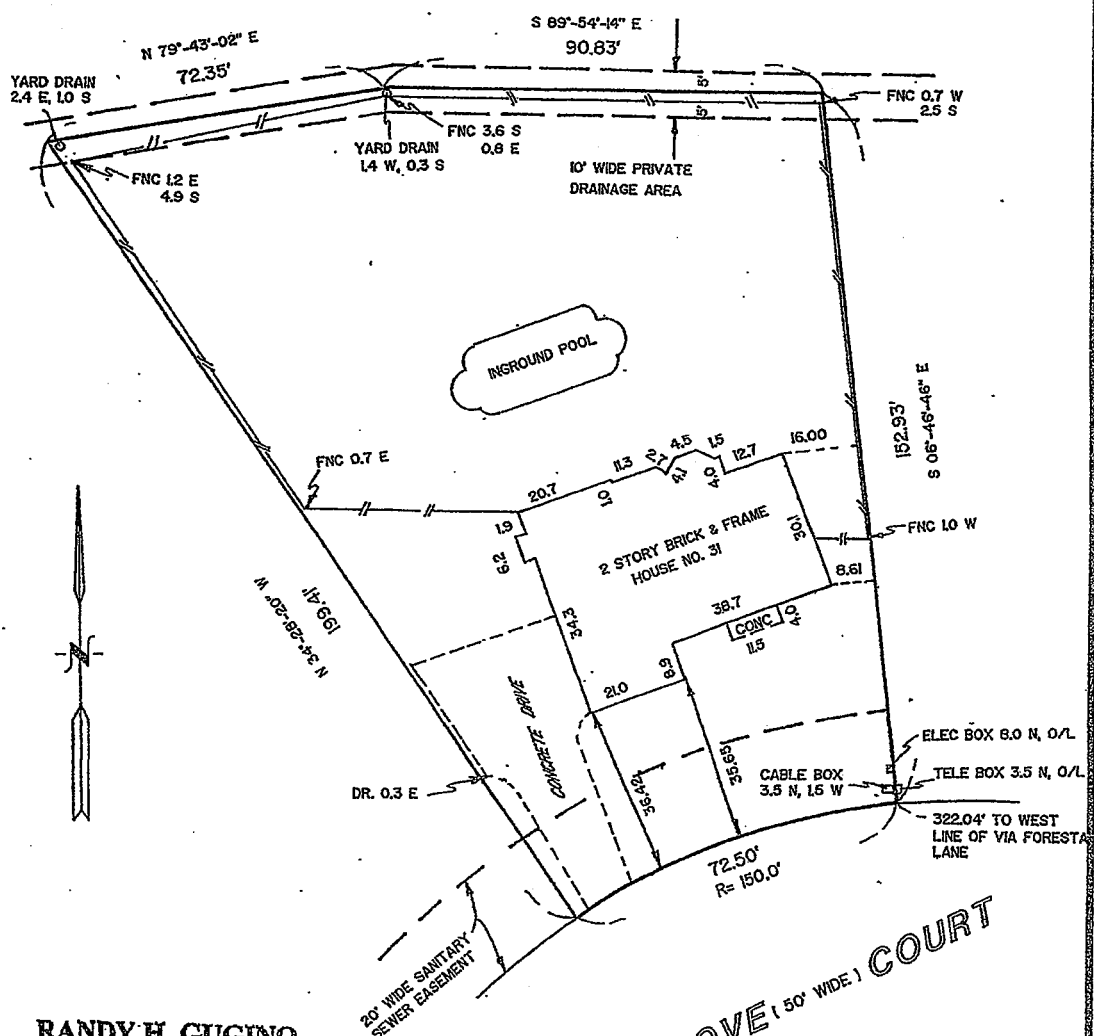
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 LAND SURVEYORS
 150 AERO DRIVE
 BUFFALO, NEW YORK 14225
 PHONE (716) 631-5140 ~ FAX 631-3811

AMEND:
 SURVEY DATE: 8-25-99
 DRAWING DATE: 9-15-99
 SCALE: 1" = 20'

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SUBLOT 184 - MAP COVER 6213
 OF LOT 275 SECTION _____ TOWNSHIP 10 RANGE 7 OF THE:
 Buffalo Creek Reservation SURVEY -

FILE No. 13320-10-

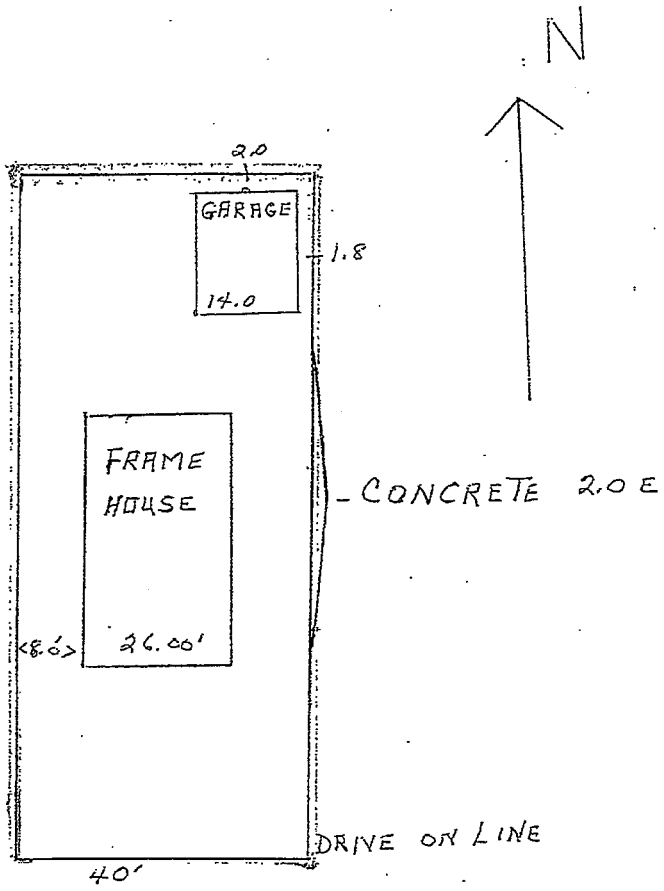


RANDY H. GUGINO
 ATTORNEY AT LAW
 2140 EGGERT ROAD
 AMHERST, NEW YORK 14226
 (716) 833-8455
 FAX: 833-8472

NOTE: THIS SURVEY MAP IS VALID ONLY FOR THE DATED INTENT. MAP IS NOT VALID AND VOIDS ALL LIABILITY WITH UNAUTHORIZED REPRODUCTION, ALTERATION AND/OR ADDITION TO THIS SURVEY MAP. IT IS A VIOLATION OF SECTION 7209, PROVISION 2 OF THE NEW YORK STATE EDUCATION LAW.

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	<p>TOWN OF AMHERST COUNTY OF ERIE NEW YORK</p> <p>PART OF LOT 98 SEC. TWP. 12 RANGE 7</p> <p>SUBLOT 43 M.C. 3096</p> <p>SBL # 5612-6-43 SCALE 1" = 30' JOB # 2041003 DATE: 9-II-04</p>	

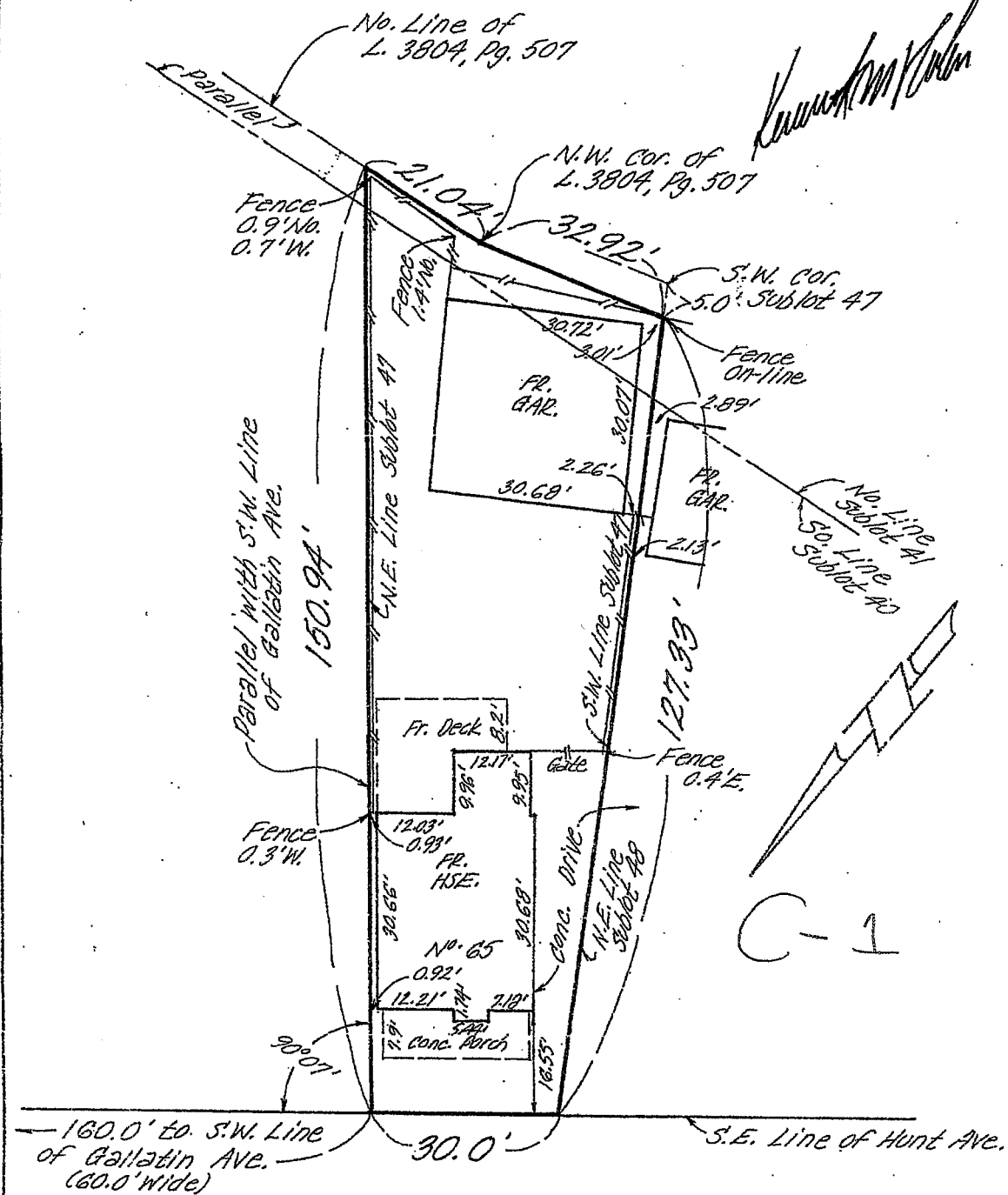


C

This survey was prepared without the benefit of an abstract of title and is subject to any state of facts that may be revealed by an examination of such

Altering any item on this map is in violation of the law, excepting as provided in Section 7209, Part 2 of the New York State Education Law

Kenneth M. Hahn



C-1

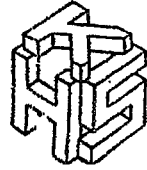
HUNT AVE.

60.0' WIDE

amended 12-17-02
 City of Buffalo
 County of Erie, New York
 Part of Lots 40 & 41 of the
 Jones Tract
 Map Cover 397, Part of Sublot 41
 Block "F"

Kenneth M. Hahn
 Licensed Land Surveyor
 N.Y.S. License No. 050151

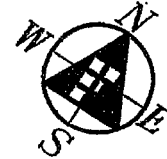
189 Lamont Drive
 Amherst, N.Y. 14226
 Phone: (716) 837-5082



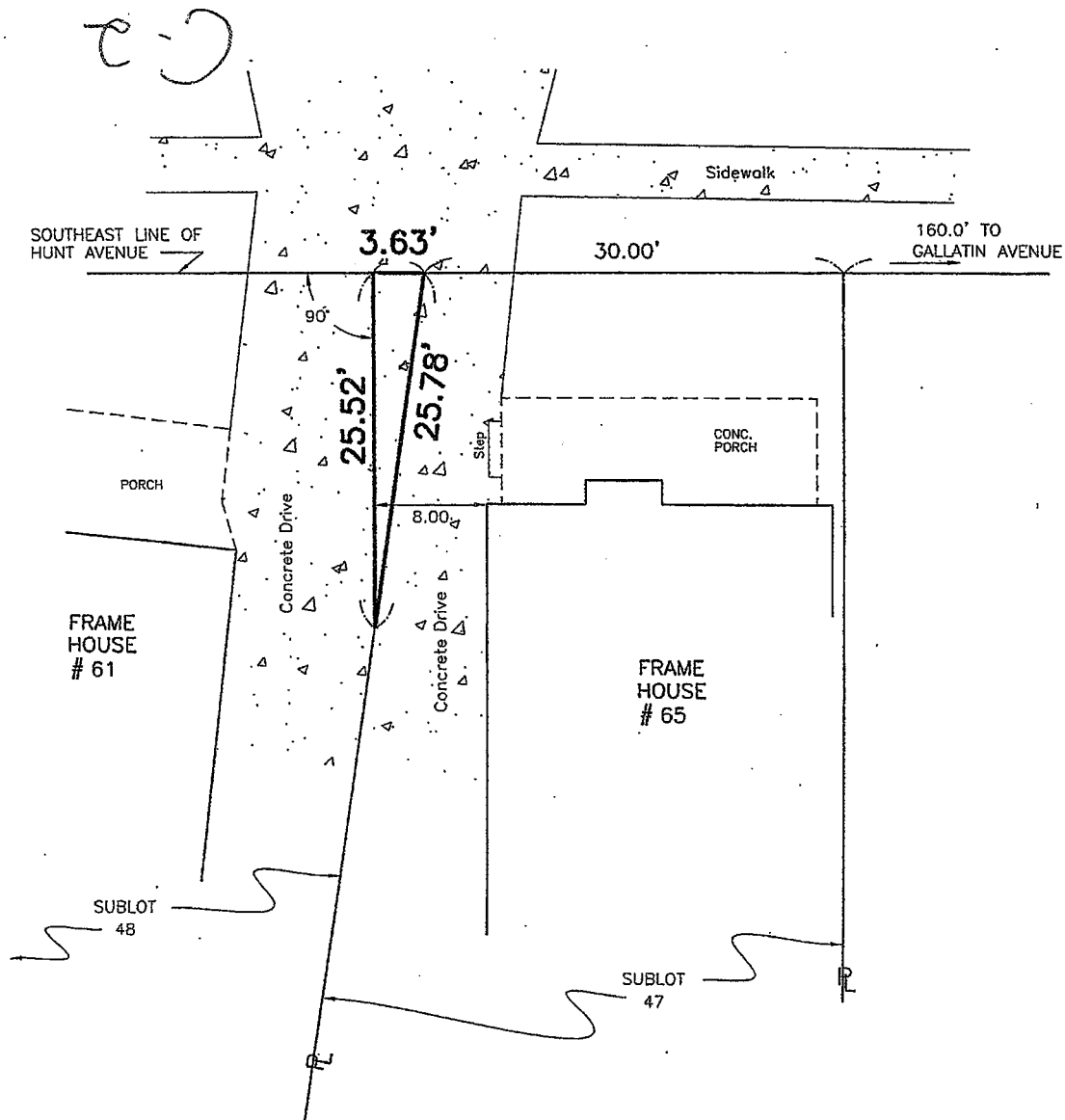
Scale: 1" = 20' Job No. 02-3277
 Survey Date: 10-31-02

Feet Inches
 0.08 - 1 inch
 0.17 - 2"
 0.25 - 3"
 0.33 - 4"
 0.42 - 5"
 0.50 - 6"
 0.58 - 7"
 0.67 - 8"
 0.75 - 9"
 0.83 - 10"
 0.92 - 11"
 1.00 - 12"


NOTE: THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF
 AN ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE
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 OF SUCH

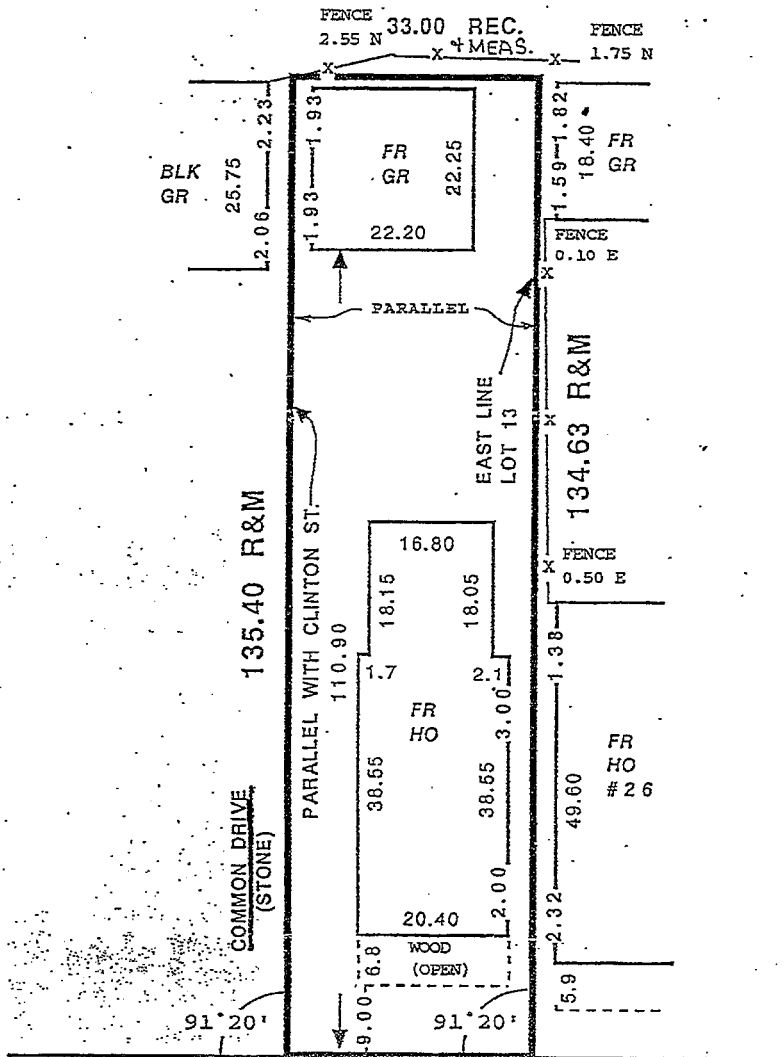


HUNT (60' WIDE) AVENUE



Bernard S. Wells

LOCATION: CITY OF BUFFALO	SCALE: 1"=10'	 Foit-Albert Associates Architecture, Engineering and Surveying, P.C. 763 Main Street, Buffalo, New York 14203 SUCCESSOR TO THE RECORDS OF CHARLES E. DENVER PHONE: (716) 856-3933 FAX: (716) 856-3961
COUNTY OF ERIE, STATE OF NEW YORK	DRAWN BY: B. E. WELLS	
PART OF LOT 40 OF THE JONES TRACT OF THE HOLLAND LAND COMPANY'S SURVEY	CHECKED BY: O. A. REYES	
MAP COVER: 397, BLOCK 'F'	RESURVEY: 67	
SUBLOT(S): PART OF SUBLOT 48	<small>Unauthorized alteration or addition to any survey, drawing, design, specification, plan or report is a violation of Section 7203, Provision 2 of the New York State Education Law. Only copies from the original of this survey may be marked with an original of the land surveyor's embossed seal and signature shall be considered to be valid true copies.</small>	
REVISIONS:	<small>Copyright Foit-Albert Associates, all rights reserved. No portion of this drawing may be reproduced, stored or transmitted by any means without prior written permission of the architect, engineer or surveyor.</small>	
DATE: AUGUST 8, 2007	JOB No.: 07-32957	NO COR. MON. SET



125.00 REC. TO
THE E/LINE OF
CLINTON (99')

33.00 REC.
& MEAS.

JOHNSON STREET

50' WIDE

D-1

- - DENOTES WOOD STAKE
- ▣ - DENOTES CONCRETE
- - DENOTES IRON PIPE

NOTE:
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT
OF AN ABSTRACT OF TITLE AND IS SUBJECT TO ANY
STATE OF FACTS THAT MAY BE REVEALED BY AN
EXAMINATION OF SUCH

THIS MAP VOID UNLESS
EMBOSSSED

WITH NEW YORK STATE LICENSED LAND
SURVEYORS SEAL. ALTERING ANY ITEM
ON THIS MAP IS A VIOLATION OF THE LAW
EXCEPT AS PROVIDED IN SECTION 7209
PART 2 OF THE NEW YORK STATE

SCHEDULE B (Cont'd)

(Handwritten circled number) 10

10. Exceptions as disclosed by survey, Job No. 89521A, made by Western New York Enterprises, dated December 27, 1989, as follows:

- (a) Variations between the lines of fences and the lines of record title;

This policy insures that the above fence misplacement or future corrections thereof will not interfere with the premises or improvements thereon.

- (b) A common driveway in the westerly portion of premises;

revoke
This policy insures that the foregoing conditions will not interfere with the use or enjoyment of improvements erected on the insured premises.

ex + (12)

was affirm

emo

emo

emo

emo

11. Furnish one further original print of survey to Berger & Quigley, Attorneys.

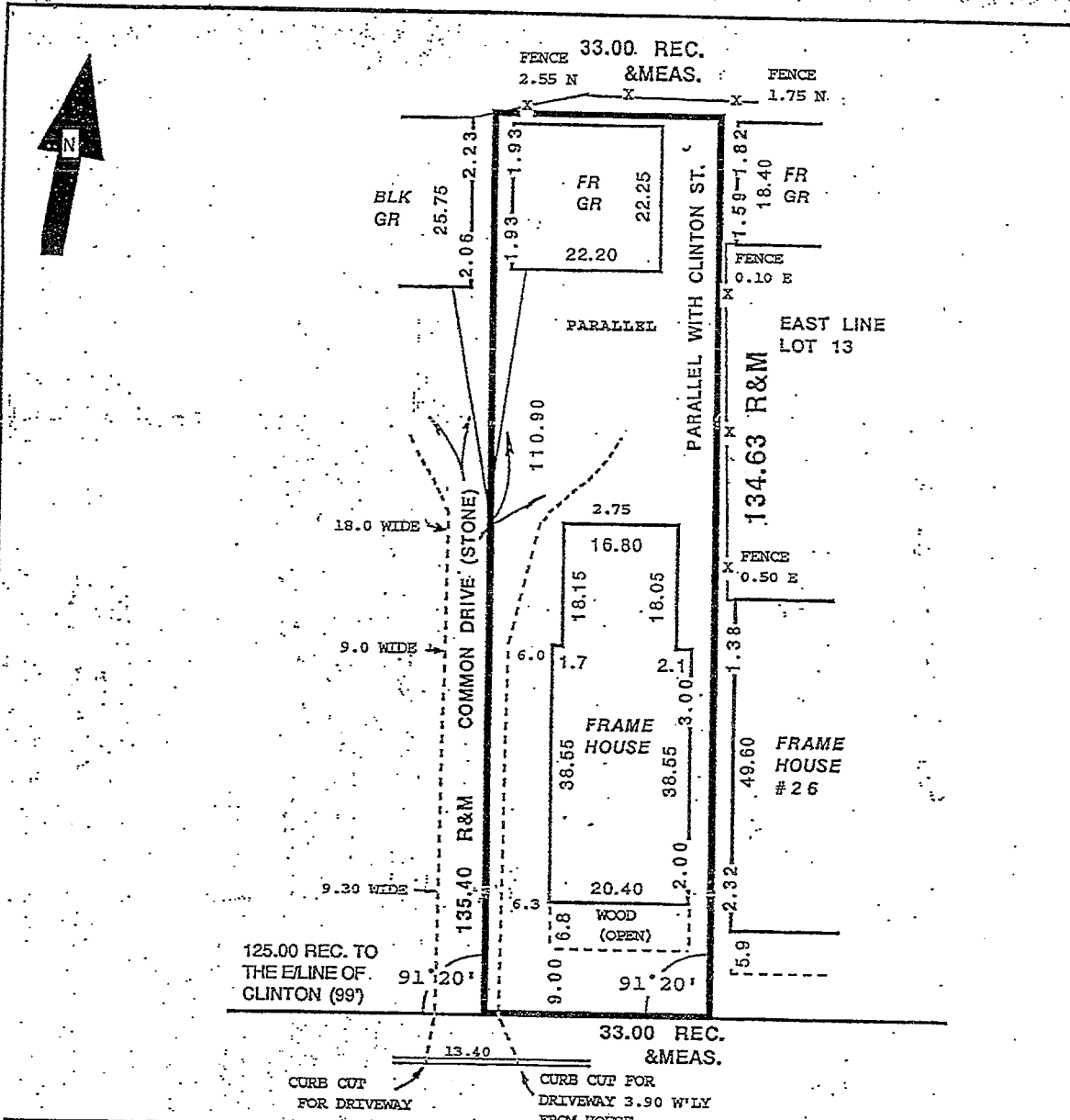
12. File or record proof of the death of Robert L. Ernst showing him survived by Betty L. Ernst as his widow.

NOTE: The foregoing must be had by either a filing in the Erie County Surrogate Office or a recording in the Erie County Clerk's Office of an affidavit with attached Certificate of Death.

13. "New York Real Property Tax Law Section 302 and 520 may affect the real estate tax liability if the premises described in Schedule A have a tax exemption. Pursuant to the Real Property Tax Law, the exemption of the premises from taxation terminates immediately upon the acquisition of title by a non-exempt entity. The premises shall be taxed pro rata for the unexpired term of the taxable year and subsequent thereto at the full valuation without benefit of such tax exemption."

NOTE: Upon submission of proof that the real estate has no tax exemption, the above exception will be omitted from the policy to be issued.

D-2



- - DENOTES WOOD STAKE
- - DENOTES CONCRETE
- - DENOTES IRON PIPE

JOHNSON STREET

50' WIDE

D-3

NOTE:
 THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE AND IS SUBJECT TO ANY FACTS OR FACTS THAT MAY BE RELEVANT.

THIS MAP VOID UNLESS EMBOSSED WITH NEW YORK STATE LICENSED LAND SURVEYORS SEAL. ALTERING ANY ITEM ON THIS MAP IS A VIOLATION OF THE LAW EXCEPT AS PROVIDED IN SECTION 7202

ENDORSEMENT

Number 1 - Page 1

Attached to and forming a part of

Title Insurance Certificate No. 9010-660084 EC

Issued by
CHICAGO TITLE INSURANCE COMPANY

THIS ENDORSEMENT IS TO BE ATTACHED TO AND FORM A PART OF TITLE NETWORK, LTD. CERTIFICATE OF TITLE INSURANCE No. 9010-660084 EC and AMEND SAME AS FOLLOWS:

1. To amend Exception No. 10(b) in Schedule "B" to now read as follows:

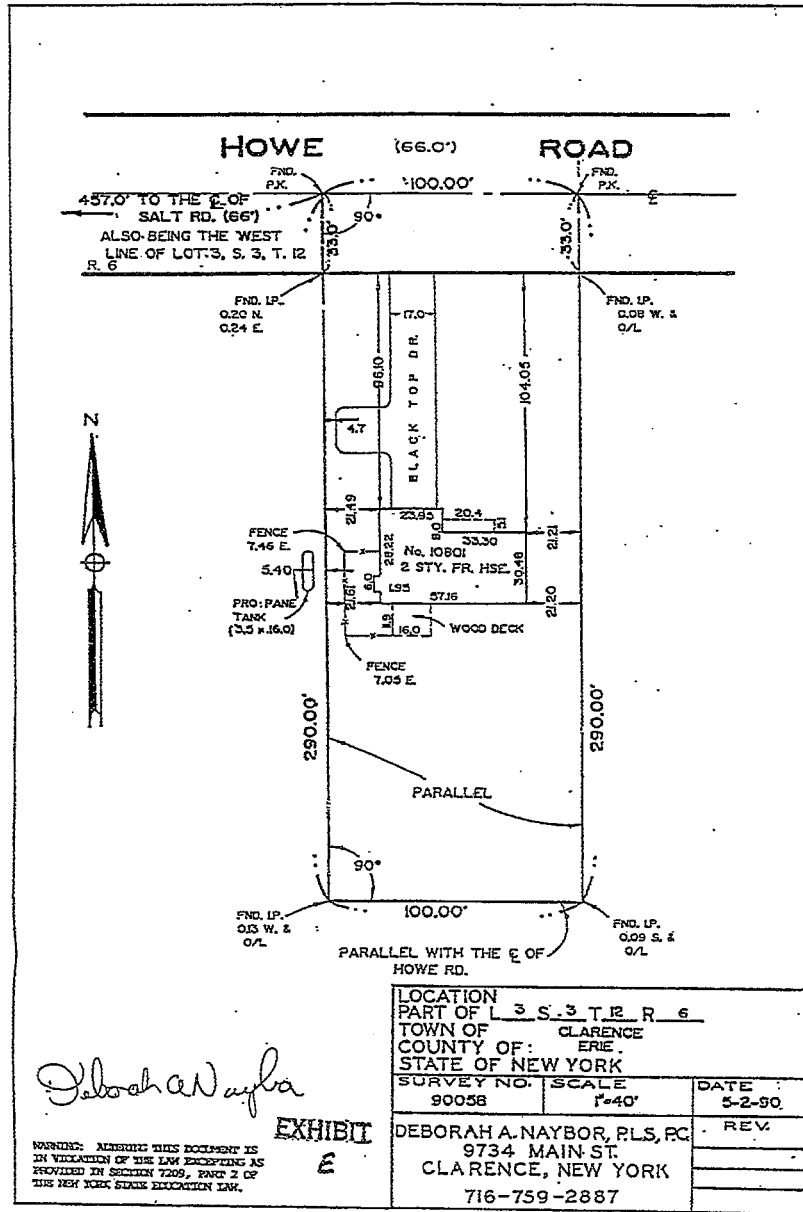
(b) A common driveway in the westerly portion of premises;

Upon the recording of the Driveway Agreement between the following affirmative insurance will be added to this policy:

This policy insures unlimited and unrestricted use for ingress and egress over the common driveway to present and future owners, their assigns and heirs forever.

2. All other Exceptions will remain as stated.

D-4



II-20

E

Westlaw

708 N.Y.S.2d 778

Page 1

272 A.D.2d 965, 708 N.Y.S.2d 778, 2000 N.Y. Slip Op. 04449

(Cite as: 272 A.D.2d 965, 708 N.Y.S.2d 778)

C

Supreme Court, Appellate Division, Fourth
Department, New York
David K. AHL, Plaintiff-Respondent,
v.
Cora JACKSON, Defendant-Appellant, et al.,
Defendants.

May 10, 2000.

Adverse possessor brought action to resolve dispute concerning certain parcel of property. The Supreme Court, Monroe County, Syracuse, J., granted summary judgment in favor of adverse possessor. Defendant appealed. The Supreme Court, Appellate Division, held that (1) trial court properly determined that adverse possessor obtained title to disputed parcel by adverse possession, and (2) statement of adverse possessor in "fence affidavit" after statutory period had run was insufficient to divest him of title.

Affirmed.

West Headnotes

[1] Adverse Possession ⇔13

20k13 Most Cited Cases

Trial court properly determined that adverse possessor obtained title to disputed parcel of property by adverse possession, where adverse possessor established that, for period of over ten years, he and his predecessors in title possessed disputed parcel and that their possession was open and notorious, exclusive, continuous, hostile and under claim of right.

[2] Adverse Possession ⇔106(1)

20k106(1) Most Cited Cases

Once adverse possessor was vested with title to property by adverse possession, title could be

transferred only by deed or other method recognized at law.

[3] Adverse Possession ⇔106(1)

20k106(1) Most Cited Cases

Statement of adverse possessor in "fence affidavit" after statutory period had run that he did not claim the land did not constitute legal transfer of title; rather, affidavit at most constituted a recognition of record title in another, which was insufficient to divest adverse possessor of title after statutory period had run.

**778 Sidney K. Schoenwald, for
Defendant-Appellant.

G. Michael Miller, Rochester, for
Plaintiff-Respondent.

PRESENT: WISNER, J.P., HURLBUTT, BALIO
and LAWTON, JJ.

**779 *965 MEMORANDUM:

[1][2][3] Supreme Court properly determined that plaintiff obtained title to the disputed parcel by adverse possession. Plaintiff established that, for a period of over 10 years, he and his predecessors in title possessed the disputed parcel and that their possession was open and notorious, exclusive, continuous, hostile and under claim of right (*see, Garrett v. Holcomb*, 215 A.D.2d 884, 885, 627 N.Y.S.2d 113; *Village of Castleton-on-Hudson v. Keller*, 208 A.D.2d 1006, 1008, 617 N.Y.S.2d 386; *Tubolino v. Drake*, 178 A.D.2d 951, 578 N.Y.S.2d 745). Because plaintiff was vested with title to the property by adverse possession, title may be transferred only by deed or other method recognized at law. The statement of plaintiff in a "fence affidavit" after the statutory period had run that he did not claim the land does not constitute a legal transfer. The affidavit constitutes at most *966 a recognition of record title in another, which is insufficient to divest plaintiff of title after the

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708 N.Y.S.2d 778

Page 2

272 A.D.2d 965, 708 N.Y.S.2d 778, 2000 N.Y. Slip Op. 04449

(Cite as: 272 A.D.2d 965, 708 N.Y.S.2d 778)

statutory period had run (*see, City of Tonawanda v. Ellicott Creek Homeowners Assn.*, 86 A.D.2d 118, 123-124, 449 N.Y.S.2d 116, *appeal dismissed* 58 N.Y.2d 824).

Order and judgment unanimously affirmed without costs.

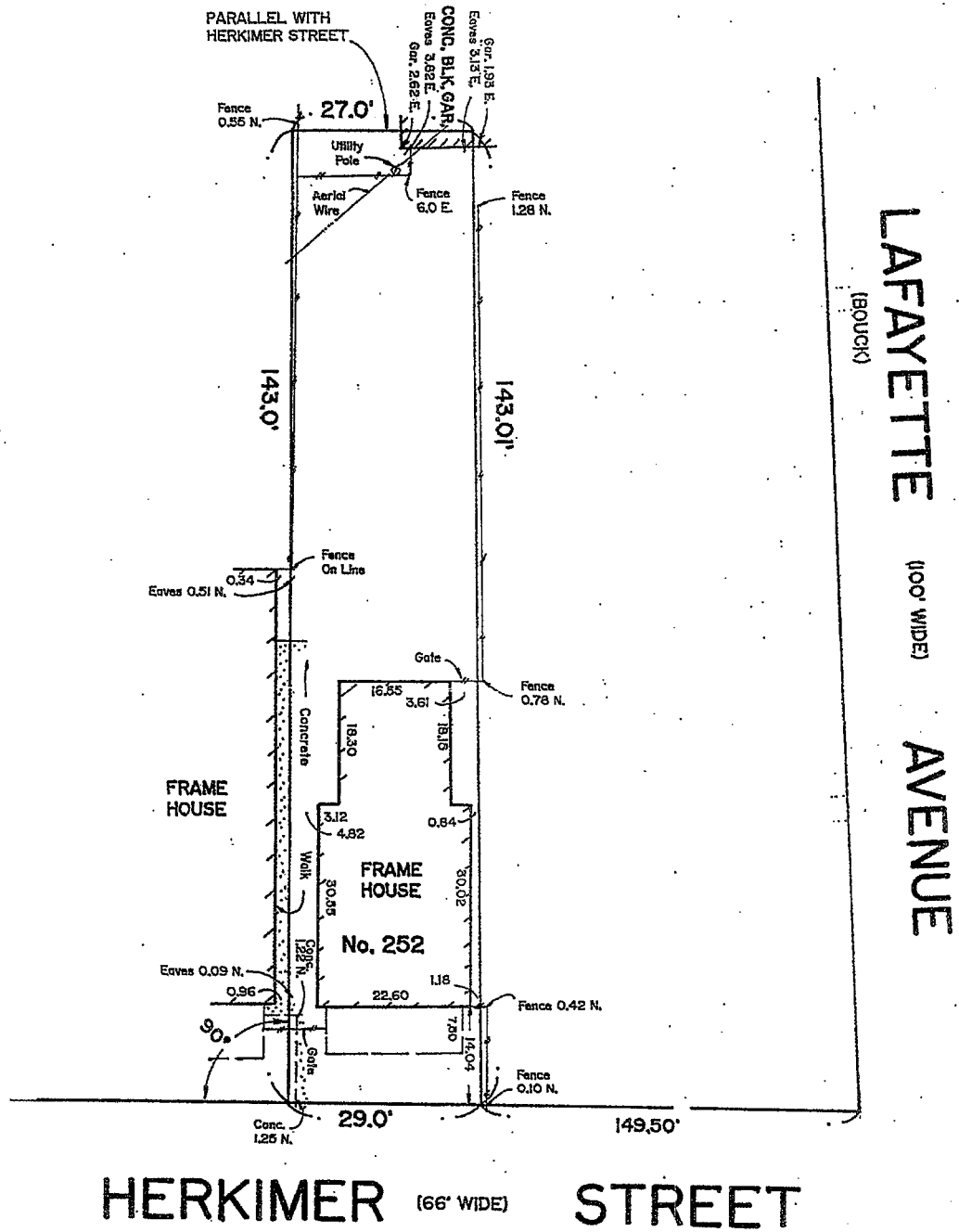
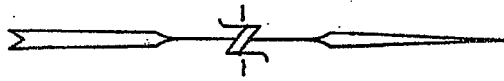
272 A.D.2d 965, 708 N.Y.S.2d 778, 2000 N.Y. Slip Op. 04449

END OF DOCUMENT

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PART OF LOT 105
OF THE STEVENS SURVEY
CITY OF BUFFALO
ERIE COUNTY, NEW YORK

Ray L. Sonnenberger
Land Surveyor
N.Y.S. Lic. No. 036193
60 Niagara Street
Buffalo, New York
Phone: 716-854-0159 Fax: 716-854-1462

Scale 1" = 20'
Sheet 58654

Date AUG. 16, 2005
No. 05-504

THE TITLE *examiner*



TICOR TITLE INSURANCE™

An Informational Newsletter Provided Courtesy of Ticor Title Insurance Company

Spring 2006

From the Editor

Is it Spring "already"?! Sun rising early, birds chirping, and hopefully clients are calling you to ask them to represent them on the sale or purchase of a home. In this issue we feature an article submitted by Mike Blinkoff reminding us how important proper title examination of title is to the transaction. Variations between record and measured distances, fence location variations, and "minor" encroachments can become problems for property owners after closing. How often are these clearly reviewed with the client before closing? We thank Mike for his thought provoking article.

If any of you would like to submit an article to me for a future issue of *The Title Examiner*, I'd be happy to review it. The article does not need to be on a real estate topic but can be a personal interest story, about changes in legal and business practices in your region, or real estate practice tips, etc.

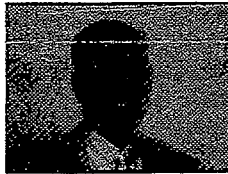
In this issue you will also find an article submitted by Elissa Fagelman, one of the underwriters in our Syracuse office, regarding recent changes in the Limited Liability Company Law related to publication requirements. Elissa is one of our 15 underwriters located in our Northern New York offices who are available to assist you with all of your title needs and questions.

Finally, because it's Spring, many young couples are planning their weddings, looking to buy their first house, and anticipating turning that house into a home for their new family. Lawyers should feel and act like they are an important part of that process.

(Continued on page 2)

Variation Between Distances of Record from Those Measured Can Be the Shortest Distance to the Courthouse

By Michael Blinkoff, Esq.



Michael M. Blinkoff, Esq.

We have all seen the notations on surveys showing that the distances according to the record title do not seem to match what is the measured distance in the field. Often it is a simple case of resolution by following the hierarchy of rules regarding monumentation. Thus, if the deed call is 100 feet to the river from the road but the measured distance is 110 feet, the natural boundary of the River is controlling, the measurement does not

matter. (See *Paquette v. Ray*, 58 A.D. 2d 950).

More troubling though is where the variation is caused by lines of historical occupancy that vary from deed calls. Here the surveyor is warning you that once in the field he found evidence of occupation that does not match legal description. Usually it is in such form as 66.00 ft. D. (for deed) or R. (for record), and 75.00 ft. M. (for measured). These notations require some serious analysis and must be viewed with respect to the property subject to the survey and the type of evidence causing the surveyors remark.

Where the variation is small and the parcel is large often the problem is of little concern. Often in such cases if the occupied area were to be shifted to meet the record description it would have little effect. Of course, if the variation is significant, or could result in causing improvement encroachments, or even a squeeze on each side of the parcel being examined, it should be cause for alarm.

The most serious issues are raised by variations of distance of a beginning point from a known monument. This can cause contiguous parcels all to be shifted and beg for boundary line agreements from neighbors. Putting aside the doctrine of adverse possession, the resolution of all these matters should begin with the attempt to determine the original grantor's intent as to where the parcel was to be located and what its dimensions were to be.

(Continued on page 2)



TICOR TITLE INSURANCE™

Spring 2006

(Continued from page 1)

This can mean tracing back the title through several grantors to try and figure out what was taking place when each parcel was conveyed, irrespective of what may have been occupied to the contrary.

Recently I was retained to give expert testimony in a boundary dispute in Wyoming County. The principal matter to be determined in the lawsuit was the location of the plaintiff's west line and the defendant's east line. One surveyor placed the plaintiff's line by historical occupation as being approximately 70 feet east from where another surveyor had placed it who had adhered strictly to legal descriptions and without field evidence of occupation. The result was a disputed area of over 3 acres.

Through the years various surveyors had placed pins along or close to each of the line locations. This brings to mind a common problem often found in these cases, where surveyors and examiners rely on field evidence of other surveyor's pins as "bootstrapping" their conclusions as to line location when in fact the earlier pins were originally placed incorrectly. This results in the problem just being perpetuated. Unfortunately, I have seen examiners and surveyors who are influenced by the number of pins surrounding any given point. It is easy to be lulled into the concept that the party with the most pins should be the winner.

Plaintiff's counsel had retained me to give expert testimony as to where I would place the boundary line, and upon what theories such an opinion would be based. The case presented to me one of the most ancient unchanged legal descriptions I have ever examined. In fact, the description used in 1843 to convey the parcel out from the larger one from which it originated remained unchanged right to the present.

Moreover, only one earlier deed of record included the plaintiff's parcel within its broader description - the original grant from the Holland Land Company in 1835. Interestingly, that deed was recorded in Genesee County because Wyoming County had yet to even be formed. Thus, there were no issues of concern regarding reconciling errors in description or locating long-removed monuments in order to find the grantor's intent.

With a distinct unambiguous description, the law is clear that parol evidence is not to be admitted to determine the grantor's intent. Further, as common with conveyances of more than a century ago, sketched pictures were used to identify the parcels within the deed rather than metes and bounds descriptions being written in full. This parcel had been neatly sketched out with the dimensions of the surrounding parcels depicted as well. There was little doubt as to exactly what piece the grantor intended to convey in 1853, and neither fences, surveyors, field findings, nor errors in the beginning points of adjacent lots were going to change that determination.

The Court in its decision had little difficulty ruling record title as prevailing over "purported established lines":

"As explained by Plaintiff's expert, Michael Blinkoff,

during his testimony, the description of Plaintiff's premises has remained intact for well over a century and the description of said premises is very clear and without any ambiguity...this being the case, there is no need to look at parol evidence to ascertain what each party owns." (decision of Supreme Court Justice Mark H. Dadd)

The maxim applied was best stated by Owen Mangan in his chapter in Real Estate Titles, 2nd Edition, Pedowitz, N.Y.S.A. 1994. "Occasionally, a surveyor will assert that the monuments he found in his fieldwork override the legal descriptions in the deed. However, the survey does not create a title." (emphasis supplied)

The caveat to be learned from all of this is that before you pass on the next title you examine where the surveyor shows variations between distances of record from those measured, remember how such variations can shorten the distance to the courthouse.

Michael M. Blinkoff, Esq.
2746 Delaware Ave.
Kenmore NY 14217
(716) 875-8916
mblinkoff@aol.com

(Mr. Blinkoff has lectured at various real estate seminars for the Bar Association of Erie County, New York State Bar Association, and private educational companies. He is available for evaluation of title matters or as an expert witness.)

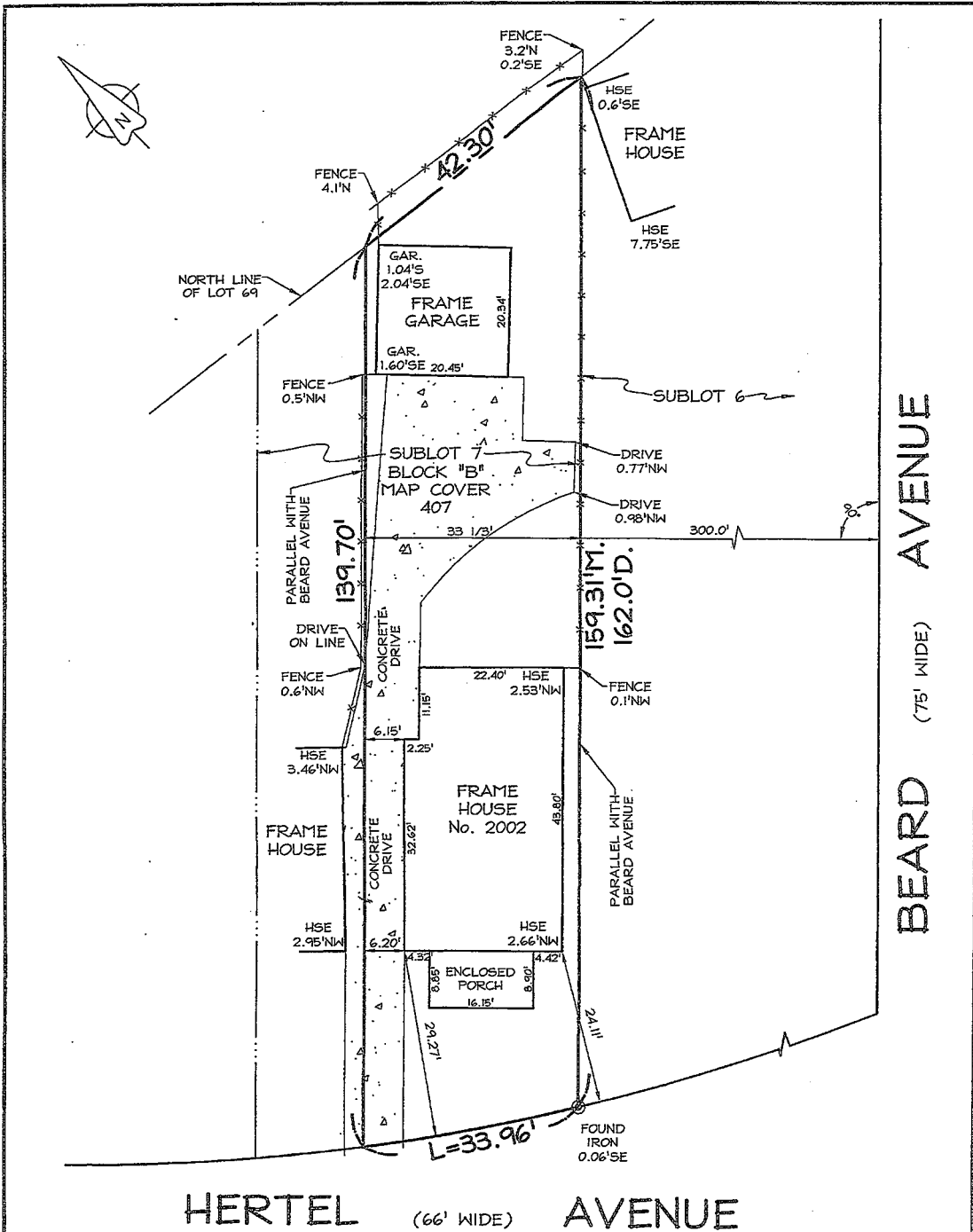
(Continued from page 1)

Real estate attorneys do not just "close a simple real estate deal". They review and approve contracts with their clients; review and give advice on financing options, either examine the title or have an examiner or title company do so, and then coordinate and attend the closing.

Attorneys and their staff should be a bit more patient with these clients. They may have never done this before while you see it every day. This is a perfect time for you to become their family attorney. They'll need Wills, help with family estate issues and other unexpected legal situations. When that time comes, they will remember your name, how you reassured them at their house closing, and how competent you and your staff were. They will feel comfortable referring you to their family, friends and co-workers. This is the image of our profession that attorneys should enhance.

Enjoy your Spring, spend more time outdoors with your children and grandchildren, and take some long walks (on a golf course) for better health.

Peter J. Battaglia
Underwriting Counsel, Buffalo Office
(716) 854-2907 ext 223
battaglia@ticortitle.com



NO IRONS SET OR FOUND AT PROPERTY CORNERS UNLESS NOTED HEREON.

This survey was prepared without the benefit of an abstract of title and is subject to any state of facts that may be revealed by an examination of such:

Unauthorized alterations or additions to any survey, drawing, design, specification, plan or report is a violation of section 7209, provision 2 of the New York State Education Law.

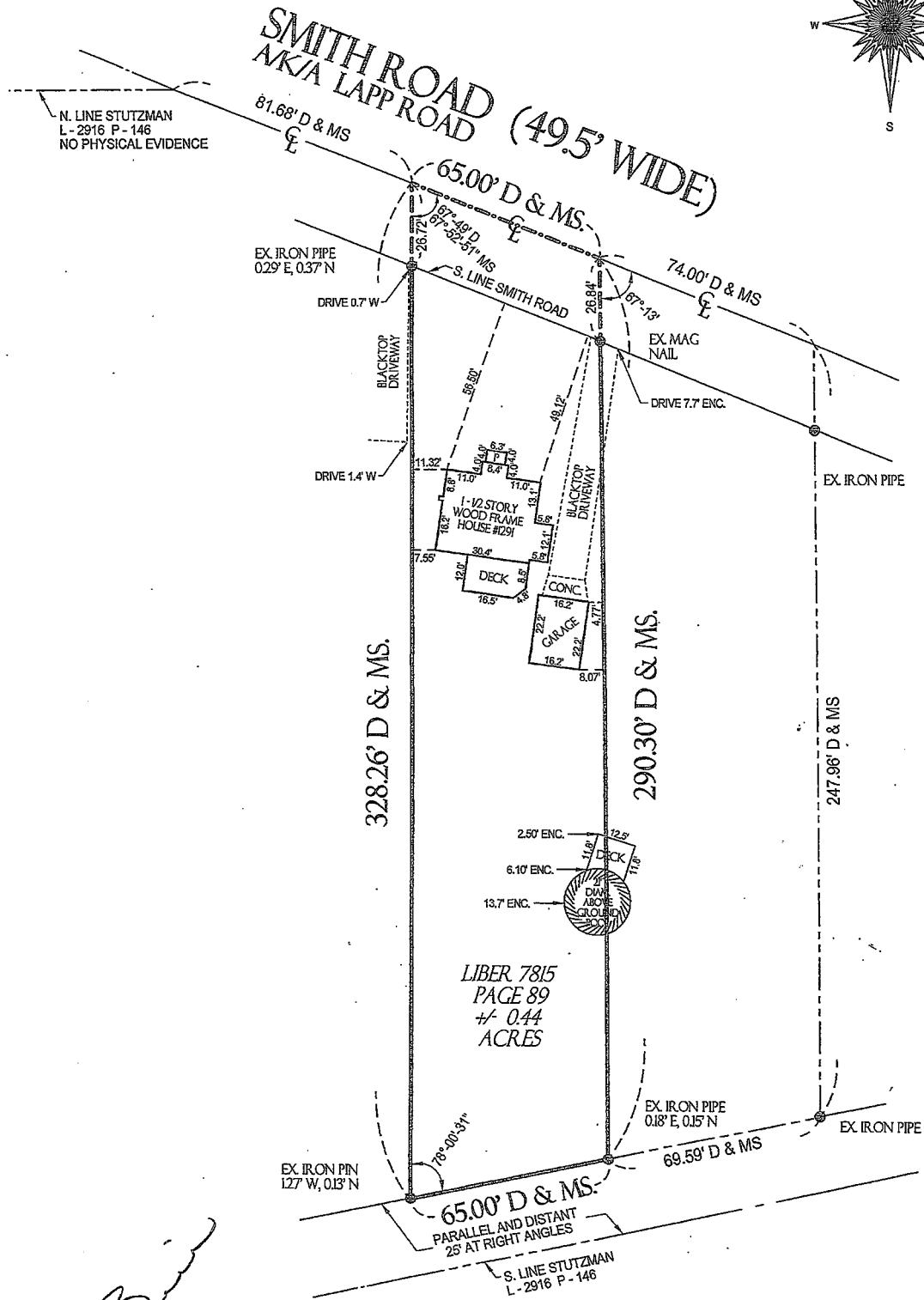
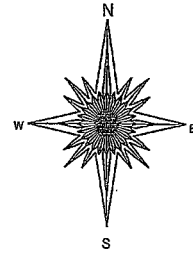
PART OF LOT(S) : 69		SECTION :	TOWNSHIP : II	RANGE : 8 OF THE HOLLAND LAND COMPANY'S SURVEY	
LOCATION : CITY OF BUFFALO		COUNTY OF ERIE		STATE OF NEW YORK	SCALE: 1" = 20'
<p>3556 Lake Shore Road Buffalo, New York 14219-1494 (716) 827-8000</p>	KIND	DATE	REQUESTED BY	JOB NO.	
	SURVEY	08-05-13	SARGENT & COLLINS, LLP	13.12-0791	
	78				

LEGEND

EX=EXISTING C-CENTERLINE L-LIBER P-PAGE MS-MEASURED D-DEED
 N-NORTH S-SOUTH E-EAST W-WEST STY-STORY WF-WOOD FRAME
 CONC-CONCRETE OIH-OVERHEAD PP-POWERPOLE P-PORCH GAR-GARAGE
 CH-CHAIN OIL-ON LINE TJB-TELEPHONE JUNCTION BOX W-WITH
 EJB-ELECTRIC JUNCTION BOX

SURVEY OF
 PART OF LOT 102, TOWNSHIP 12, RANGE 7
 OF THE HOLLAND LAND COMPANY'S SURVEY
 TOWN OF AMHERST, ERIE COUNTY, NY
 SCALE: 1" = 30'

Project # 2013-09-A
 December 19, 2013



Reverse of B...

BICKLE LAND SURVEYING

79

4063 DAY ROAD
 LOCKPORT, NY 14094
 PHONE: 716-434-8401
 FAX: 716-434-2255

517 A MAIN STREET
 MEDINA, NY 14103

PH/FAX: 585-798-6357

ONLY PRINTS OF THIS SURVEY MAP MARKED WITH AN ORIGINAL SIGNATURE AND AN EMBOSSED SEAL SHALL BE CONSIDERED TO BE VALID TRUE COPIES.
 UNAUTHORIZED ALTERATION OR ADDITION TO THIS SURVEY MAP IS A VIOLATION OF SECTION 7209 PROVISION 2 OF THE NEW YORK STATE EDUCATION LAW.



County Clerk's Recording Page

Return to:
BOX 147

Book Type: D Book: 11260 Page: 5696
Page Count: 9
Doc Type: EASEMENT/RTWY
Rec Date: 02/14/2014
Rec Time: 03:02:26 PM
Control #: 2014032019
UserID: Danielle
Trans #: 14026081
Document Sequence Number
TT2013012957

Party 1:
POPP AMY M

Party 2:
KLEPP MAUREEN

Recording Fees:

RECORDING	\$65.00
COE CO \$1 RET	\$1.00
COE STATE \$14.25 GEN	\$14.25
COE STATE \$4.75 RM	\$4.75
TP584	\$10.00

Consideration Amount: 10.00

BASIC MT	\$0.00
SONYMA MT	\$0.00
ADDL MT/NFTA	\$0.00
SP MT/M-RAIL	\$0.00
NY STATE TT	\$0.00
ROAD FUND TT	\$0.00

Total: \$95.00

STATE OF NEW YORK
ERIE COUNTY CLERK'S OFFICE

WARNING - THIS SHEET CONSTITUTES THE CLERK'S ENDORSEMENT REQUIRED BY SECTION 319&316-a (5) OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK. DO NOT DETACH. THIS IS NOT A BILL.

Christopher L. Jacobs
County Clerk

Box 149

EASEMENT AGREEMENT

THIS AGREEMENT, made as of this 12th day of February, 2014, by and between Amy M. Popp, residing at 1301 Smith Rd., Amherst, New York, Grantor, as hereinafter defined, and Maureen Klepp, currently residing at 1291 Smith Rd., Amherst, New York, Grantee, as hereinafter defined. In consideration of Ten Dollars paid to the Grantor, the mutual covenants hereinafter expressed, and other valuable consideration, the Grantor and Grantee agree as follows:

WITNESSETH:

I. DEFINITIONS

Whenever used in this Agreement, the terms listed below shall refer to and be defined as follows:

- A. GRANTOR. Amy M. Popp, her successors, assigns, legal representatives, and successors in title and/or interest.
- B. GRANTEE. Maureen Klepp, her heirs, successors, assigns, legal representatives, and successors in title and/or interest.
- C. PARTIES. Grantor and Grantee collectively.
- D. GRANTOR'S LANDS. The lands described in Schedule A annexed hereto and commonly known as 1301 Smith Rd., Amherst, New York.
- E. GRANTEE'S LANDS. The lands described in Schedule B annexed hereto and commonly known as 1291 Smith Rd., Amherst, New York.
- F. DRIVEWAY EASEMENT AREA. The portion of the current driveway area existing upon Grantor's Lands as shown on the survey attached

D19

785-8

hereto as Exhibit C, shaded area.

II. RECITALS

- A. Grantor is the owner of that parcel of real property described on Grantor's Lands.
- B. Grantee is or is about to become the owner of that parcel of real property described as Grantee's Lands.
- C. The Grantee wishes to ensure that it will have vehicular and pedestrian access to Grantee's Lands from the public street commonly known as Smith Rd., Amherst, New York over the Driveway Easement Area.
- D. The Parties wish to ensure that the maintenance and repair responsibilities arising from the use and location of the easement granted herein are established.

III. GRANTING CLAUSES

- A. The Grantor hereby grants to the Grantee, its tenants, invitees, or its agents, the permanent and non-exclusive rights of pedestrian and vehicular ingress and egress over the Driveway Easement Area, subject to the terms, conditions and liabilities described herein.

IV. TERMS AND CONDITIONS

- A. MAINTENANCE
 - 1. Driveway Easement Area

The Grantee shall have full responsibility for the cost of maintaining and repairing of the Driveway Easement Area. This will include blacktopping, sealing, or replacing blacktop which is in reasonable need of replacement. The Grantee will be responsible for the cost of snow clearance for the Driveway Easement Area.

B. Driveway Easement Area to be Unobstructed

Grantor covenants and agrees that the Grantor shall not block the Driveway Easement Area at anytime so that the Grantee may freely use such area for ingress and egress without interruption.

VII. **GENERAL TERMS AS TO THIS AGREEMENT**

A. ATTORNEYS FEES TO PREVAILING PARTIES

In the event that either the Grantee or the Grantor shall seek enforcement of the rights conferred pursuant to this Agreement, then the prevailing party shall be entitled to reimbursement and indemnification for all reasonable attorneys fees, costs and disbursements expended as a result thereof.

B. RUN WITH LAND

The obligations imposed by this Agreement shall be deemed to run with the land as a binding servitude upon Grantor's Lands and as appurtenant to the Grantee's Lands.

C. EFFECTIVENESS OF THIS AGREEMENT

This agreement shall immediately become effective upon the recording of the same in the Erie County Clerk's Office.

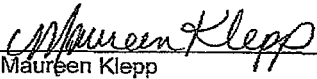
D. HOLD HARMLESS

The Grantee agrees to hold harmless the Grantor from any claim for personal injury or property damage arising out of Grantee's use, or failure to maintain, the Driveway Easement Area.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the day and year first above written.



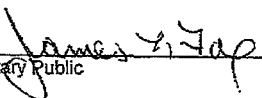
Amy M. Popp



Maureen Klepp

STATE OF NEW YORK }
COUNTY OF ERIE } ss.:

On the 12th day of February, in the year 2014, before me, the undersigned, a notary public in and for said state, personally appeared, Amy M. Popp, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(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 capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person on behalf of which the individual(s) acted, executed the instrument.

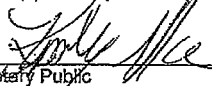


Notary Public

JAMES L. FOX
Notary Public, State of New York
Qualified in Niagara County
My Commission Expires June 30, 2015

STATE OF NEW YORK }
COUNTY OF ERIE } ss.:

On the 14th day of February, in the year 2014, before me, the undersigned, a notary public in and for said state, personally appeared, Maureen Klepp, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(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 capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person on behalf of which the individual(s) acted, executed the instrument.



Notary Public

KIMBERLY S. ROSE
NOTARY PUBLIC, STATE OF NEW YORK
Reg. No. 01RO4979489
QUALIFIED IN ERIE COUNTY *DRS*
My Commission Expires January 14, _____

EXHIBIT "A"

All that Certain Plot, Piece or Parcel of Land, situate in the Town of Amherst, County of Erie and State of New York, being part of Lot No. 102, Township 12, Range 7 of the Holland Land Company's Survey, described as follows:

BEGINNING at a point in the center line of Smith Road (formerly Lapp Road), distant 146.68 feet southeasterly from the intersection of said center line of Smith Road with the northerly line of lands conveyed to Howard Stutzman by deed recorded in Erie County Clerk's Office in Liber 2916 of Deeds at page 146; said point of beginning being the northeasterly corner of premises conveyed by Stutzman to Joseph M. Popp and wife by deed recorded in Erie County Clerk's Office in Liber 4251 of Deeds at page 440; running thence southerly making a southeasterly angle with the center line of Smith Road of $87^{\circ} 13'$ and along the easterly line of premises conveyed to Popp aforesaid, a distance of 290.30 feet to a point in a line drawn parallel with and distant 25 feet northerly from the south line of premises conveyed to Howard Stutzman as aforesaid; said point being the southeast corner of premises conveyed to Popp as aforesaid; thence easterly along said parallel line, a distance of 69.59 feet to a point; thence northerly on a straight line, a distance of 247.96 feet to a point in the center line of Smith Road, distant 74 feet southeasterly from the point of beginning; thence northwesterly along the center line of Smith Road, a distance of 74 feet to the point or place of beginning.

EXHIBIT "B"

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie and State of New York, being part of Lot Number 102, Township 12, Range 7 of the Holland Land Company's Survey, described as follows:

BEGINNING at a point in the center line of Smith Road (formerly Lapp Road) distant 81.68 feet southeasterly from the intersection of said center line of Smith Road and the northerly line of lands conveyed to Howard Stutzman by deed recorded in Erie County Clerk's Office in Liber 2916 of Deeds at page 146, said point being the northeast corner of premises conveyed by Stutzman to Scherer by deed dated February 28, 1945 and recorded in Erie County Clerk's Office; running thence southerly making a southeasterly angle with the center line of Smith Road of $67^{\circ} 49'$ and along the easterly line of premises conveyed to Scherer aforesaid a distance of 328.26 feet to a point in a line drawn parallel with and distant 25 feet northerly from the south line of premises conveyed to Howard Stutzman as aforesaid, said point being the southeast corner of premises conveyed to Scherer as aforesaid; thence easterly along said parallel line a distance of 65 feet to a point; thence northerly on a straight line a distance of 290.30 feet to a point in the center line of Smith Road distant 65 feet southeasterly from the point of beginning and thence northwesterly along the center line of Smith Road a distance of 65 feet to the point or place of beginning.

LEGEND

EX-EXISTING C-CENTERLINE L-LIBER P-PAGE MS-MEASURED D-DEED
N-NORTH S-SOUTH E-EAST W-WEST STY-STORY WF-WOOD FRAME
CONC-CONCRETE OIH-OVERHEAD PP-POWERPOLE P-PORCH GAR-GARAGE
CH-CHAIN OIL-ON LINE TJB-TELEPHONE JUNCTION BOX VP-VIETH
EJB-ELECTRIC JUNCTION BOX

SURVEY OF
PART OF LOT 102, TOWNSHIP 12, RANGE 7
OF THE HOLLAND LAND COMPANYS SURVEY
TOWN OF AMHERST, ERIE COUNTY, NY
SCALE 1" = 30'

Project #
Decemb

Exhibit C

