

BK2108 PGO 7 3 7

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COUNTY OF LARIMER

1981 MAR 27 AM 11: 50
STATE OF COLORADO

AGREEMENT

This Agreement, made this 31st day of December, 1980, by and between Maurice Abel and Martha Abel, hereinafter collectively called "Abel" and Helmich-American, a joint venture, consisting of Burnell C. Helmich, Larry J. Helmich and Kenneth W. Brown, hereinafter referred to as "Helmich", is made upon the following terms and conditions:

The following recitals of fact are a material part of this agreement:

1. Abels are the owners of the premises described in Schedule "A" attached hereto and made a part hereof.
2. Helmich is the owner of the premises described in Schedule "B" attached hereto and made a part hereof.
3. Said premises of Abel and Helmich adjoin each other.
4. Helmich is in the process of developing, declaring and constructing condominiums on its premises.
5. It is necessary for Helmich to acquire an easement across the Abel property for the purpose of constructing, installing, maintaining and operating a sewer line connecting the development with the existing sewer line owned and operated by the Upper Thompson Sanitation District.

Therefore, in consideration of the mutual promises and covenants herein contained, the parties agree as follows:

1. In consideration of the covenants to be performed by Helmich, Abels do hereby agree to grant to Helmich or its nominee, an easement for the installation, maintenance, operation and replacement of a sewer line from the property of Helmich to the existing line of the Upper Thompson Sanitation District, said easement to be in the form and on and under the premises described in the form of easement set forth in Schedule "C" attached hereto and made a part hereof.

2. In consideration of the grant of the easement, Helmich agrees as follows:

- A. One juniper tree and one pinon tree as designated by Abels, being presently located on the easement premises, shall be removed by Helmich, stored and replanted after the installation of the sewer line. All work shall be performed by Chief Landscape Company in Estes Park. ~~One pine tree at the southwest~~

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~~corner of the easement premises and one blue spruce at the southeast corner~~^{1/4}
~~of the easement premises shall be replaced by Abels.~~ In the event that the juniper tree, the pinon tree, the pine tree replacement and the blue spruce replacement should die at any time within 18 months after replanting or replacement, the same shall be replaced by Helmich, at Helmich's own expense. All replacement shall be of a like size as the originals that were either replanted or replaced as above provided. The actual sewer line shall be located at least ten feet from the said pine tree and blue spruce tree. If the trees so replanted or replaced are living at the end of 18 months after the time of such replanting or replacement, then Helmich shall have no further obligation to replace the trees if they should die after that time.

B. Helmich shall remove the septic tank located on Abel's premises, dispose of the same and fill up any excavation caused by the removal thereof. Helmich also agrees, at his own expense, to extend the sewer line from Abel's house and to connect the same to the main line operated by the Upper Thompson Sanitation District. Abel shall have no expense whatsoever in extending such sewer line or for such connections.

C. Any trench dug for the installation and operation of the sewer line or for any replacement thereof, shall be refilled up to and tamped to within six inches of ground level. Said 6" depression shall be filled with top soil. He shall further remove any excess dirt not needed for such refilling of the trench at his own expense. The area shall be cleaned of all debris and excess dirt to the satisfaction of Abels. Helmich further agrees to cover the same with top soil and reseed with grass in early spring following the installation of the said sewer line.

D. Helmich further agrees to pay at his own expense, any indebtedness of Abels to the Upper Thompson Sanitation District for tap fees or for permits, the same being estimated to be \$250.

E. Helmich agrees to perform all of the above, in consideration for the granting of the easement, at no expense to the Abels. Helmich agrees further to prosecute all work with reasonable diligence, however, delays caused by weather, strikes or acts of God are hereby recognized to be an exception to the diligence required above.

3. Upon the signing of this agreement, Abels agree to execute and deliver said easement as set forth in Schedule "C". However, the terms of this agreement

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shall not be deemed to have merged in the granting of said easement, and the same shall survive the delivery of said easement. The parties recognize that the consideration be given will have to be performed after the granting of the easement.

4. This agreement shall extend to the heirs, devisees, personal representatives, successors and assigns of the parties hereto.

In Witness Whereof, the parties have signed this agreement the day and year first above written.

Maurice Abel
Maurice Abel

Martha S. Abel
Martha Abel

Burnell C. Helmich
Burnell C. Helmich

Larry T. Helmich
Larry T. Helmich

Kenneth W. Brown
Kenneth W. Brown

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Schedule "A"

BEG AT PT ON E LN OF LOT 3, S ST VRAIN, ESTES PK, FROM WH NE COR OF SD
LOT 3 BEARS N 0 57' W 445 FT, S 89 03' W 177.9 FT ALG SRLY LN OF TR
DESC IN BK 1393 PG 605 TO E LN OF LOT 4 OF SD ADD: TH S 0 57' E ALG
E LN OF SD LOT 4, 170 FT, TH NERLY ALG SRLY BDRY OF LOT 3, 189 FT M/L
TO SE COR OF LOT 3: TH N 0 57' W 106 FT M/L TO POB

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Schedule "B"

Lot 4, South St. Vrain
Addition, Estes Park, Colorado

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Schedule "C"

EASEMENT

This easement grant is made between Maurice Abel and Martha Abel, hereinafter referred to as "The Grantors" and Helmich-American, a joint venture consisting of Burnell C. Helmich, Larry J. Helmich and Kenneth W. Brown, hereinafter referred to as "The Grantees".

The following recitals of fact are a material part of this instrument:

A. Grantors are the owners of property described as Lot 4, South St. Vrain Addition to the Town of Estes Park, Larimer County, Colorado, also known as 1070 South St. Vrain, Estes Park, Colorado.

B. Grantees are the owners of the premises described as: in exhibit "A"

C. It is necessary for the Grantees to obtain from the Grantors an easement on, under and across the northerly 15 feet of the grantors' above described premises for the purpose of constructing, installing, operating, repairing and replacing a sewer line from the premises of the Grantees to the main sewer line owned and operated by the Upper Thompson Sanitation District.

Now, Therefore, in consideration of Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following grants, agreements and covenants are made:

1. Grant of Easement. The Grantors hereby grant to the Grantees, their heirs, successors and assigns forever, as an easement appurtenant to the premises of the Grantees above described, a permanent, non-exclusive easement on and under the ~~northerly~~^{south} 15 feet of even width of Lot 4 in South St. Vrain Addition to the Town of Estes Park, Larimer County, Colorado,

for the purpose of constructing, installing, maintaining, repairing and replacing a sewer line, main, conduits for the transmission and distribution of sewage from the premises of the Grantees to the main sewer line of the Upper Thompson Sanitation District, together with the right to enter upon the premises forming a part of this easement above described to install, construct, repair and replace said sewer line, main, and conduit.

2. Use of Easement Premises. Exclusive use of easement premises is not hereby granted, and the Grantors reserve the right to use the surface of the

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easement premises provided that such use is not inconsistent with the easement herein granted and further provided that no buildings, structures or improvements shall be erected or constructed thereon.

3. Dominant Tract Use. The premises of the Grantees, being the dominant tract, is being developed for the purpose of declaring and constructing and selling condominium units thereon. The Grantors acknowledge that they have been advised of the number of units and the construction of said units shall not be deemed to be an unlawful increase of the burden and use of the easement.

4. Warranties of Title. Grantors warrant that they have good and indefeasible fee simple title to the easement premises.

5. Title Insurance. Should the Grantees so desire, they may apply forthwith for a title insurance policy insuring the easement herein granted and Grantors will make available for inspection by title company any evidence of title in their possession. The Grantors shall have no responsibility to pay for any title policy or any portion thereof.

6. Restoration of Premises. Grantees agree that if the easement premises is disturbed because of any repair or replacement work, that the surface shall be restored to the condition which existed before such repair work or replacement, as nearly as the same can be practically done.

7. Attorney's Fees. Either party may enforce this instrument by appropriate action and the prevailing party in such litigation shall recover their reasonable attorney's fees incurred in enforcement hereof.

8. Running of Benefits and Burdens. All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon an inure to the heirs, assigns, successors, tenants and personal representatives of the parties hereto.

In Witness Whereof, the parties have signed this agreement the day and year first above written.

THE GRANTORS:

Maurice Abel
Martha S. Abel

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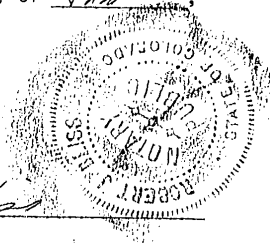
STATE OF Colorado }
COUNTY OF Larimer } ss.

Sworn to and subscribed in my presence this 2nd day of JAN,
1981, by Maurice Abel and Martha Abel.

Witness my hand and official seal.

My commission expires: 9/3/82

Robert J. Bliss
Notary Public



THE GRANTEES:
HELMICH-AMERICAN, a Joint Venture

Burnell C. Helmich
Burnell C. Helmich
Larry J. Helmich
Larry J. Helmich
Kenneth W. Brown
Kenneth W. Brown

STATE OF COLORADO }
COUNTY OF Larimer } ss.

Sworn to and subscribed in my presence this 30th day of December,
1980, by Burnell C. Helmich, Larry J. Helmich and Kenneth W. Brown.

Witness my hand and official seal.

My commission expires: 10-5-81

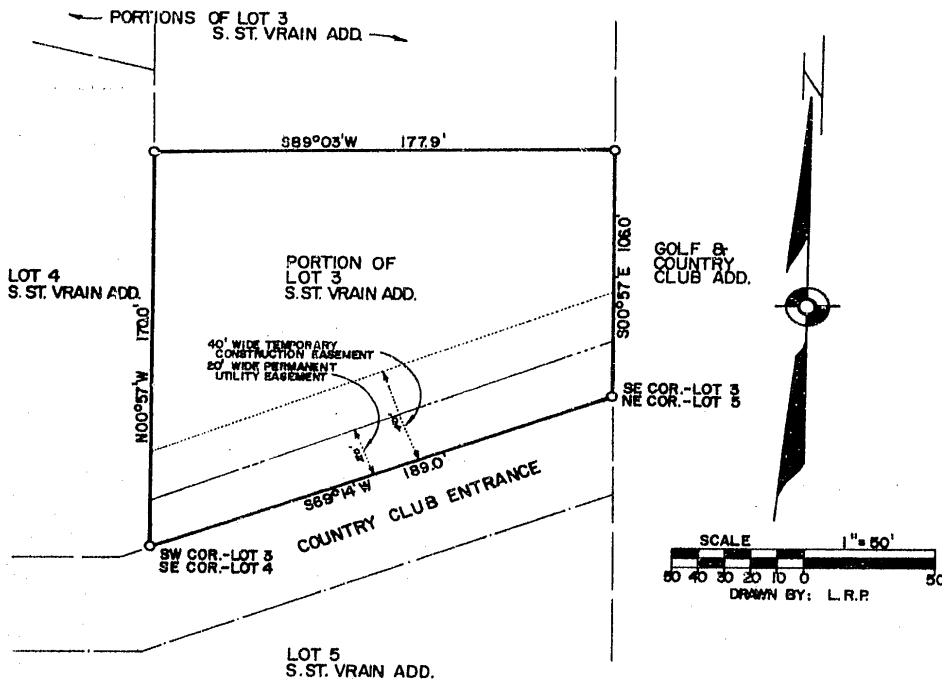
Phillis E. Friedrich
Notary Public



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COLLECTOR LINE EASEMENT DESCRIPTION — EXHIBIT 'A'

W.O. 1275
Sheet 1 of 1



DESCRIPTION

That portion of the following described easements contained within the boundaries of Lot 3, South Saint Vrain Addition to the Town of Estes Park, Colorado, located in the NW 1/4 of the NE 1/4 of Section 31, T5N, R72W of the 6th P.M., Larimer County, Colorado.

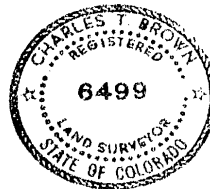
A 20 foot wide permanent utility easement and a 40 foot wide temporary construction easement more particularly described as commencing at the Southeast corner of said Lot 3, the TRUE POINT OF BEGINNING, which is also the Northeast corner of Lot 5, South Saint Vrain Addition, with all bearings relative to the South line of said Lot 3 considered as bearing S69°14'W: thence lying along, parallel with and adjacent to the following described line for a width of 20.00 feet for the permanent utility easement (40.00 feet for the temporary construction easement) on the North side of said line:

thence S69°14'W a distance of 189.0 feet along the South line of said Lot 3 to the Southwest corner of said Lot 3, which is also the Southeast corner of Lot 4, South Saint Vrain Addition, and the point of termination of these easements.

SURVEYOR'S CERTIFICATE

I, Charles T. Brown, licensed in the State of Colorado, do hereby certify that the above legal description was prepared under my personal supervision the 9th day of January, 1981, and is true and accurate to the best of my knowledge and belief.

Charles T. Brown
Charles T. Brown, R.L.S. 6499 January 9, 1981



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March 23, 1981

Mr. Maurice Abel
1036 South St. Vrain Avenue
Estes Park, Colorado 80517

RE: Easement for
U.T.S.D. Sewer
Line

Dear Mr. Abel,

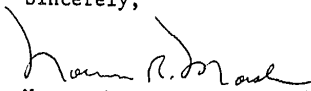
As a result of a review of the easement by U.T.S.D., they have noticed a couple typographical errors which should be corrected as follows:

Page 1 of the easement refers to the "northerly 15 feet" and "north 15 feet" - these should read as the "southerly 20 feet" and "south 20 feet".

This correction in no way alters our intention to dig a very narrow trench where it will do the least amount of damage to your property. Also enclosed is a copy of Exhibit A which should be attached to your copy of the easement.

Upper Thompson Sanitation District estimates that the line will be built between April 15th and April 30th. Thank you for your cooperation!

Sincerely,


Norman R. Marsh

NRM:ed