

Clackamas County Court
Received

JAN 09 2012

Trial Court Administrator
By _____

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

CITY OF LAKE OSWEGO, an Oregon
municipal corporation,

Plaintiff,

v.

Steven C. Blake and Julie N. Blake; Derek
N. Tippner and Diane M. Tippner; Brandt L.
Vroman and Shanon M. Vroman; Darryl L.
Walters and Rebecca L. Walters; Brian M.
Wheeler and Anna Marie Wheeler; Michael W.
Cooper and Natalie J. Cooper; Alvin Benjamin
Cota and Yvonne Faye Davis; Raymond L.
Cozby and Kim D. Cozby; Casey P. Davidson
and Amanda Davidson; Carl L. Edwards and
Linda S. Edwards; Carol B. Ellsworth, Trustee
under the Carol B. Ellsworth Revocable Living
Trust; Shaun Gavin and Georgia L. Gavin;
Kenichi Hanawa and Rachel Yeoh Hanawa;
Robert J. Henderson and Jenne R. Henderson;
Jeane M. Jones, Trustee under the Jones Living
Trust; Donald R. Kauffman, Jr. and Cindy L.
Kauffman; Robert M. Knutson and Sharon A.
Kramer; Micheal McCarthy and Lisa McCarthy;
Shane M. Medbery and Natascha L. Medbery;
Angela Jennifer Niedermeyer; Michael B.
Ragan and Donna C. Fausner-Ragan as Co-
Trustees of the Fausner Ragan Family 1996
Trust; Neal F. Rea and Jana Jo Rea; David P.
Robinson and Mary E. Robinson; Robert E.
Rowning, Jr. and Muriel I. Rowning; Valarie

Case No. **CV 12010184**

COMPLAINT

(Proceedings in Eminent Domain)

(Claim Not Subject to Mandatory Arbitration)

1 Ann Sabo; Thomas J. Sieben and Gwen L.
2 Seiben, Trustees under the Sieben Living Trust;
3 Patrick Smith and Victoria Smith; Samuel I.
4 Stephens; Dove Bar Properties, LLC and Cary
5 K. Tamura and Denise J. Tamura; Anatasia
6 Boudoures; C.S. Christensen, Jr. and Nathalie
7 Christensen; Richard A. Constantino and
8 Patricia C. Riner-Constantino; Brian A. Coons
9 and Faviola P. Coons; Amy E. Cox; Ujahn B.
10 Davisson and Tara T. Davisson; Thomas
11 Holder; Stephen F. Hopkins and Nancy A.
12 Hopkins; Charles K. Landskroner, Trustee of
13 The Charles K. Landskroner Revocable Trust;
14 Timothy J. McAdams and Julie C. McAdams;
15 Marilyn R. McComb; Raymond E. Nodurft and
16 Viki L. Nodurft; Mukesh Patel; Scott W. Reid
17 and Ann B. Reid; Ruth Emily Ruhnke, Trustee
18 under Declaration of Revocable Trust; Liselotte
19 Scheu; C.K. Siu, Trustee of the C.R. Siu
20 Revocable Living Trust; Ronald R. Sloan and
21 Diane R. Sloan, Trustees of the Ronald and
22 Diane Sloan Family Trust; Joan Swartz;
23 Francisco Varela and Traci Lea Varela; and
24 Victoriya Yatsula,

25 Defendants.

26 Plaintiff alleges as follows:

1.

Plaintiff is the City of Lake Oswego (hereinafter the "City"), a municipal corporation organized and existing under the laws of the State of Oregon and situated in Clackamas County, Oregon.

2.

Plaintiff has authority to condemn private property for public purposes pursuant to the Lake Oswego Charter of 1964, Section 36, ORS 225.020, ORS 223.001-ORS 223.105, and ORS Chapter

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3.

The City has the authority to engage in activities that promote the health, safety, benefit and general welfare of the public, including independently or jointly acquiring, owning and operating utilities and water systems within and outside the city boundaries.

4.

On or about August 6, 2008 the City of Lake Oswego and the City of Tigard entered into an intergovernmental agreement to expand Lake Oswego's drinking water infrastructure to serve the City of Lake Oswego and the City of Tigard. By resolution 11-06, The City adopted the Intergovernmental Agreement and authorized the "Project".

5.

The City has an existing water treatment facility for the City of Lake Oswego's system located on property it owns in West Linn, Oregon at 4260 Kenthrope Way. The City owns four additional properties in West Linn, Oregon that abut the current water treatment facility. These properties are in the Maple Grove Plat (hereinafter referred to as the "Plat") as lots 12, 13, 14, and the westerly one-half of lot 15 (4245, 4305, 4315 Mapleton Drive and a property with no street address). Exhibit B. These properties are necessary for the Project expansion of the existing water treatment facility.

6.

The Plat recorded certain covenants, conditions and restrictions (hereinafter referred to as "covenants") on the use and occupancy of the properties in the Plat, which included a covenant that no structure other than a family dwelling could be erected in the Plat. Exhibit C. The covenants of the Plat on the City owned lots 12, 13, 14, and the westerly one-half of lot 15 impede the expansion of the water treatment facility. By resolution 11-06 and resolution 10-58 the City found it necessary to acquire and remove the covenants and restrictions on the real property in the Maple Grove Plat on the City lots to the extent necessary to further the Project and the public purposes described herein. The Project is planned in such a manner as to be most compatible with the greatest public good and

1 the least private injury.

2 7.

3 Each defendant identified herein owns property or a property interest in the Maple Grove Plat
4 which can be identified as follows:

5 a. Defendant Steven C. Blake and Julie N. Blake, Parcel 2, partition plat number 1193-
6 19, as tenants by the entirety, 4400 Mapleton Drive, West Linn, OR 97068.

7 b. Defendant Derek N. Tippner and Diane M. Tippner, lot Tract 7, 3963 Mapleton Drive,
8 West Linn, OR 97068.

9 c. Brandt L. Vroman and Shanon M. Vroman, tenants by the entirety, part of Lots 10 and
10 11, 4101 Mapleton Drive, West Linn, OR 97068.

11 d. Darryl L. Walters and Rebecca L. Walters, tenants by the entirety, the east one-half of
12 Lot 36, 4426 Mapleton Drive, West Linn, OR 97068.

13 e. Brian M. Wheeler and Anna Marie Wheeler, tenants by the entirety, Parcel 2, Partition
14 Plat No. 1995-69, 4300 Mapleton Drive, West Linn, OR 97068.

15 f. Michael W. Cooper and Natalie J. Cooper, tenants by the entirety, Parcel 2, Partition
16 Plat No. 1994-70, 3970 Mapleton Drive, West Linn, OR 97068.

17 g. Alvin Benjamin Cota and Yvonne Faye Davis, tenants by the entirety, Parcel 1,
18 Partition Plat No. 1990-65, 4226 Mapleton Drive, West Linn, OR 97068.

19 h. Raymond L. Cozby and Kim D. Cozby, tenants by the entirety, Parcel 4, Partition Plat
20 No. 2006-156 4284 Mapleton Drive, West Linn, OR 97068.

21 i. Casey P. Davidson and Amanda Davidson, tenants by the entirety, Parcel 3, Partition
22 Plat No. 2006-156, 4262 Mapleton Drive, West Linn, OR 97068.

23 j. Carl L. Edwards and Linda S. Edwards, Lot 26, 3680 Mapleton Drive, West Linn, OR
24 97068.

25 k. Carol B. Ellsworth, Trustee under the Carol B. Ellsworth Revocable Living Trust
26 Dated Sept. 29, 2008, Lot 17, 4553 Mapleton Drive, West Linn, OR 97068.

1 l. Shaun Gavin and Georgia L. Gavin, tenants by the entirety, Parcel 1, Partition Plat No.
2 1993-19, 4412 Mapleton Drive, West Linn, OR 97068.

3 m. Kenichi Hanawa and Rachel Yeoh Hanawa, a portion of the east one-half of Lot 11,
4 4191 Mapleton Drive, West Linn, OR 97068.

5 n. Robert J. Henderson and Jenne R. Henderson, tenants by the entirety, Parcel 3,
6 Partition Plat No. 1992-20, 4130 Mapleton Drive, West Linn, OR 97068.

7 o. Jeane M. Jones, Trustee under the Jones Living Trust dated October 25, 1995, the
8 West 75 feet of Lot 35, 4310 Mapleton Drive, West Linn, OR 97068.

9 p. Donald R. Kauffman, Jr. and Cindy L. Kauffman, tenants by the entirety, a tract of
10 land being a part of Tract 7, Maple Grove, 3993 Mapleton Drive, West Linn, OR 97068.

11 q. Robert M. Knutson and Sharon A. Kramer with the right of survivorship, Lot 41, 5070
12 Mapleton Drive, West Linn, OR 97068.

13 r. Micheal McCarthy and Lisa McCarthy, tenants by the entirety, Parcel 2, Partition Plat
14 No. 1997-137, 4491 Mapleton Drive, West Linn, OR 97068.

15 s. Shane M. Medbery and Natascha L. Medbery, Lot 1, Partition Plat No. 1997-137,
16 4451 Mapleton Drive, West Linn, OR 97068.

17 t. Angela Jennifer Niedermeyer, a tract of land being a part of Lots 10 and 11, 4155
18 Mapleton Drive.

19 u. Michael B. Ragan and Donna C. Fausner-Ragan as Co-Trustees of the Fausner Ragan
20 Family 1996 Trust, for the benefit of Michael B. Ragan and Donna C. Fausner-Ragan, a tract of land
21 being a part of Tract 19 of Maple Grove, 4981 Mapleton Drive, West Linn, OR 97068.

22 v. Neal F. Rea and Jana Jo Rea, tenants by the entirety, Lot 3, Partition Plat No. 1990-65,
23 4240 Mapleton Drive, West Linn, OR 97068.

24 w. David P. Robinson and Mary E. Robinson, Tract 29, and the West 30 feet of Tract 30,
25 3960 Mapleton Drive, West Linn, OR 97068.

26 x. Robert E. Rowning, Jr. and Muriel I. Rowning, tenants by the entirety, Lot 8, 4025

1 Mapleton Drive, West Linn, OR 97068.

2 y. Valarie Ann Sabo, Parcel 2, Partition Plat No. 1992-20, 4110 Mapleton Drive, West
3 Linn, OR 97068.

4 z. Thomas J. Sieben and Gwen L. Seiben, Trustees under the Sieben Living Trust dated
5 April 3, 1998, a portion of Lots 39, 40, 41 and 42 of Maple Grove, 4950 Mapleton Drive, West Linn,
6 OR 97068.

7 aa. Patrick Smith and Victoria Smith, tenants by the entirety, Lot 37, 4448 Mapleton
8 Drive, West Linn, OR 97068.

9 bb. Samuel I. Stephens, Parcel 3, Partition Plat No. 1994-70, 3990 Mapleton Drive, West
10 Linn, OR 97068.

11 cc. Dove Bar Properties, LLC and Cary K. Tamura and Denise J. Tamura, tenants by the
12 entirety, each as tenants in common, Parcel 2, Partition Plat No. 2006-047, vacant land, West Linn,
13 OR 97068.

14 dd. Anatasia Boudoures, Lot 22, 5035 Mapleton Drive, West Linn, OR 97068.

15 ee. C.S. Christensen, Jr. and Nathalie Christensen, tenants by the entirety, portions of Lots
16 39, 40 and 41, 4738 Mapleton Drive, West Linn, OR 97068.

17 ff. Richard A. Constantino and Patricia C. Riner-Constantino, tenants by the entirety, Lot
18 23, 5965 Mapleton Drive, West Linn, OR 97068.

19 gg. Brian A. Coons and Faviola P. Coons, tenants by the entirety, the East 40 feet of
20 Tracts 26 and 27 and the West 35 feet of Tract 28, 3760 Mapleton Drive, West Linn, OR 97068.

21 hh. Amy E. Cox, Lot 5, and the West 110 feet of Lot 6, divided by a line parallel to the
22 West line of said Lot 6, 3841 Mapleton Drive, West Linn, OR 97068.

23 ii. Ujahn B. Davisson and Tara T. Davisson, part of tracts 2 and 3, 3711 Mapleton Drive,
24 West Linn, OR 97068.

25 jj. Thomas Holder, Parcel 1, Partition Plat 1994-70, 4000 Mapleton Drive, West Linn,
26 OR 97068.

1 kk. Stephen F. Hopkins and Nancy, who also appears of record as Nancy A. Hopkins,
2 tenants by the entirety, Part of Lot 29, 3910 Mapleton Drive, West Linn, OR 97068.

3 ll. Charles K. Landskroner, Trustee of The Charles K. Landskroner Revocable Trust,
4 dated January 6, 2006, Lot 1, Partition Plat No. 2006-047, 4059 Mapleton Drive, West Linn, OR
5 97068.

6 mm. Timothy J. McAdams and Julie C. McAdams, Parcel 1, Partition Plat No. 1993-18,
7 4322 Mapleton Drive, West Linn, OR 97068.

8 nn. Marilyn R. McComb, Parcel 2, Partition Plat No. 1993-18, together with the Southerly
9 10 feet of Parcel 1, Partition Plat No. 1993-18, 4344 Mapleton Drive, West Linn, OR 97068.

10 oo. Raymond E. Nodurft and Viki L. Nodurft, tenants by the entirety, the West 65 feet of
11 the East 170 feet of Tracts 26 and 27, 3708 Mapleton Drive, West Linn, OR 97068.

12 pp. Mukesh Patel, a part of the Plat of Maple Grove, and consisting of a part of Tract 18
13 together with a part of Tract 39, vacant land, West Linn, OR 97068.

14 qq. Scott W. Reid and Ann B. Reid, tenants by the entirety, a part of Lot 6, 3845 Mapleton
15 Drive, West Linn, OR 97068.

16 rr. Ruth Emily Ruhnke, Trustee under Declaration of Revocable Trust dated April 19,
17 1990, Part of Tracts 2 and 3, 3757 Mapleton Drive, West Linn, OR 97068.

18 ss. Liselotte Scheu, a portion of Tract 15, 4435 Mapleton Drive, West Linn, OR 97068.

19 tt. C.K. Siu, Trustee of the C.R. Siu Revocable Living Trust dated October 5, 1995, the
20 West 65 feet of the East 105 feet of Tracts 26 and 27, 3718 Mapleton Drive, West Linn, OR 97068.

21 uu. Ronald R. Sloan and Diane R. Sloan, Trustees of the Ronald and Diane Sloan Family
22 Trust U/T/A dated September 20, 1992, a part of Tracts 18 and 19, 4973 Mapleton Drive, West Linn,
23 OR 97068.

24 vv. Joan Swartz, Parcel 1, Partition Plat No. 1992-20, 4120 Mapleton Drive, West Linn,
25 OR 97068.

26 ww. Francisco Varela and Traci Varela, who also appears of record as Traci Lea Varela,

1 Parcel 3, Partition Plat No. 1994-35, 2028 Old River Road, West Linn, OR 97068.

2 xx. Victoriya Yatsula, Lot 2, Partition Plat No. 1990-65, 4160 Mapleton Drive, West
3 Linn, OR 97068.

4 8.

5 Prior to commencing this action, plaintiff attempted to negotiate an agreement with each
6 defendant to amend the Plan to the extent the covenants impeded the expansion of the water
7 treatment facility and conveyed to each defendant a written offer accompanied by an appraisal that
8 valued any property interest defendants may have in the covenants on the City property and offered
9 each defendant \$1,000.00 as just compensation. Plaintiff was unable to reach an agreement with each
10 defendant as to the compensation to be paid and, therefore, prosecutes this action.

11 9.

12 The City herein is condemning those covenants limiting the use and occupancy of property in
13 Maple Grove on the parcels identified as lots 12, 13, 14 and the westerly one-half of lot 15, as
14 described in document 92-31354 of Clackamas County deed records, to the extent necessary for the
15 construction and operation of a municipal water treatment facility and related supporting facilities
16 and to the extent necessary for public recreational uses including but not limited to a pedestrian or
17 bike path, walkway or park.

18 10.

19 The covenant provides that any restriction covering the Maple Grove Plat may be changed or
20 modified by the signed agreement or petition of 75% of the owners. Certain property owners within
21 Maple Grove have signed an amendment to the covenants upon the use and occupancy of the
22 property which would allow for the covenants to be removed to the extent that the covenants impede
23 the construction and operation of the municipal water treatment facility and related supporting
24 facilities. Those signed amendments constitute an agreement to the Plat to allow the Project. At such
25 time as 75% of the property owners have a judgment entered herein or have a signed agreement to the
26 amendment of the covenants as set forth herein, the Plat will be deemed amended and modified to lift

1 the covenants as described herein.

2 11.

3 The legal description of the property interest being condemned is set out in Exhibit A,
4 attached hereto and by this reference made a part hereof. Any all described herein acquisition is
5 necessary for the construction and related transitional work to plaintiff's property.

6 12.

7 The true value of the property interest being appropriated by plaintiff and assigned to each
8 parcel and the estimated damages, if any, resulting from the appropriation thereof, is the sum of no
9 more than \$1,000.00.

10 13.

11 Plaintiff has immediate need for the possession and will deposit the sum of \$51,000 into the
12 Court.

13 WHEREFORE, plaintiff prays that a judgment be given as set forth herein in favor the City of
14 Lake Oswego:

15 1. Removing those restrictions and covenants on that Plat that limit the use and
16 occupancy of property in Maple Grove on the parcels identified as lots 12, 13, 14 and the westerly
17 one-half of lot 15, as described in document 92-31354 of Clackamas County deed records, to the
18 extent necessary for the construction and operation of a municipal water treatment facility and related
19 supporting facilities and to the extent necessary for public recreational uses including but not limited
20 to a pedestrian or bike path, walkway or park.

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- 1 2. Awarding plaintiff its reasonable costs and disbursements incurred herein
2 3. Awarding such other relief as the Court finds appropriate.

3 DATED this 9th day of January, 2012.

4 GARVEY SCHUBERT BARER

5 By 

6 Cynthia M. Fraser, OSB #872243

7 John Junkin, OSB #743805

8 Telephone: 503 228 3939

9 Fax: 503 226 0259

10 cfraser@gsblaw.com

11 jjunkin@gsblaw.com

12 Attorneys for Plaintiff

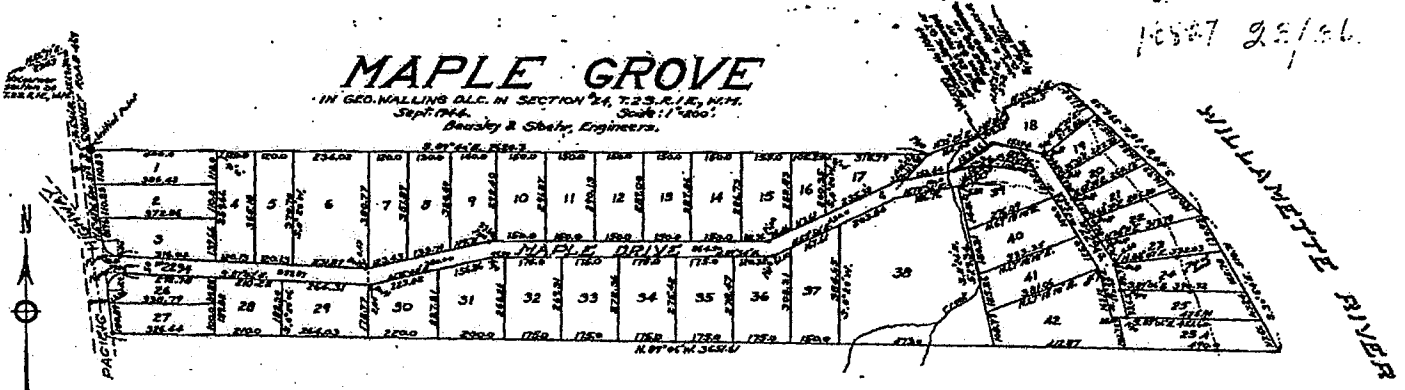
13 Trial Attorney: Cynthia M. Fraser

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EXHIBIT A

The reservations, conditions, covenants and agreements affecting the plat of MAPLE GROVE recorded in Book 338 Page 365, Clackamas County deed records as RESERVATIONS AND RESTRICTIONS UPON USE AND OCCUPANCY OF PROPERTY IN MAPLE GROVE, IN CLACKAMAS COUNTY, OREGON are removed to the extent necessary to permit the construction and operation of a municipal water treatment facility and related supporting facilities and for public recreational uses including but not limited to a pedestrian or bike path, walk way or park on the parcels identified on the plat as lots 12, 13, 14, and the westerly one-half of lot 15, as described in document 92-31354 of Clackamas County deed records. This removal is intended to run with the land and shall apply to future conveyances and shall constitute modification of the restrictions covering the Maple Grove Plat in accordance with section 9 of the Reservations and Restrictions Upon the Use and Occupancy of the Property.

10507 25/26



MAPLE GROVE
 IN GEO. WALLING D.L.C. IN SECTION 24, T.23. N. 1. E. 37. N.W. 1/4
 Sept. 1944. Scale: 1"=200'.
 Bausky & Stahly, Engineers.

KNOW ALL MEN BY THESE PRESENTS, That Bertha Leonard and H.E. Leonard her husband, do hereby make, establish and declare the enclosed map a true and correct map and plat of Maple Grove as described in the accompanying surveyor's certificate, all facts being of the dimensions shown on said map and all roads and streets of the width thereon set forth, and said Bertha Leonard and H.E. Leonard do hereby declare in the public or public ways, forever all roads and streets shown on said map.

In WITNESS WHEREOF, said Bertha Leonard and H.E. Leonard do hereby set their hands and seals this 24th day of October, 1944.

Subscribed in the presence of us, the undersigned, County Public Notary for said State and County, and thereunto acknowledged to me that they executed the said instrument of their free and voluntary act and deed for the uses and purposes therein set forth.

W. E. Wesley
 Notary Public for State of Oregon

Bertha Leonard
H. E. Leonard

All fees from L.C. Surveyors paid
Earl Lindquist Sheriff
 By Madison L. Gipe Deputy

Approved Nov 26 1944
D. A. Meltsman County Surveyor

Approved 1944
Arthur E. Wood County Assessor
 By Fernand J. Gaudin Deputy

Approved Nov 9 1944
Earl E. Gipe
Paul Randall County Commissioners

STATE OF OREGON
 COUNTY OF MULTNOMAH

I, Earl E. Gipe, County Clerk, do hereby certify that the foregoing is a true and correct copy of the original of the above described instrument, as the same appears in my office, and that the same has been duly recorded in my office, and that the same is a true and correct copy of the original of the above described instrument, as the same appears in my office, and that the same has been duly recorded in my office.

Earl E. Gipe
 County Clerk

BE IT REMEMBERED, that on this 24th day of October, 1944, before me the undersigned County Public Notary for said State and County, personally appeared Bertha Leonard and H.E. Leonard her husband, and thereunto acknowledged to me that they executed the said instrument of their free and voluntary act and deed for the uses and purposes therein set forth.

In WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 24th day of October, 1944.

W. E. Wesley
 Notary Public for State of Oregon
 My commission expires 1/1/45

O. Stahly, being first duly sworn, deposes and says that I have correctly surveyed and marked with appropriate monuments the lands represented on the annexed map of Maple Grove, that at the initial point of said survey I drove a silvered iron pipe, 2 inches in diameter, and 36 inches long, 8 inches below the surface of the ground, said initial point being located by a bearing of 234° 47' to the center of County Road No. 467, thence S. 85° 52' E. along the center of said road 127.35 ft. thence S. 65° 00' E. 30.23 ft. the property plotted is described as follows: Beginning at a point in the center of County Road No. 467 which is 127.35 ft. from the initial point, thence S. 85° 52' E. 127.35 ft. thence N. 75° 21' W. 32.21 ft. thence N. 65° 00' E. 30.23 ft. thence N. 10° 17' W. 37.2 ft. thence N. 75° 21' W. 32.21 ft. thence S. 85° 52' E. 127.35 ft. to the center line of the Pacific Highway and along the center of County Road No. 467, 600.87 ft. to the point of beginning.

Subscribed and sworn to before me this 24th day of October, 1944.
W. E. Wesley
 Notary Public for State of Oregon
 My commission expires 1/1/45

Clay H. Chase County Clerk
Caro L. Hunt Deputy

RESERVATIONS AND RESTRICTIONS UPON USE AND
OCCUPANCY OF PROPERTY IN MAPLE GROVE, IN
CLACKAMAS COUNTY, OREGON

KNOW ALL MEN BY THESE PRESENTS, That BERETTA LEONARD and H. E. LEONARD, wife and husband, do hereby certify and declare that the following reservations, conditions, covenants and agreements shall become and hereby are made a part of all conveyances of property within the plat of MAPLE GROVE, as the same appears in plat recorded in Book 23, page 36, Record of Town Plats of Clackamas County, Oregon, of which conveyances the following reservations, conditions, covenants and agreements shall become a part by reference hereto and to which they shall thereupon apply fully and with the same effect as if set forth at large therein, during the period of twenty-five years from and after the 4th day of November, 1944.

These covenants are to run with the land and shall be binding on all persons claiming under them until November 4, 1969, at which time said covenants shall be automatically extended for successive periods of 10 years unless by vote of a majority of the then owners of the lots it is agreed to change said covenants in whole or in part.

If the parties hereto, or any of them, or their heirs or assigns, shall violate or attempt to violate any of the covenants herein it shall be lawful for any other person or persons owning any real property situated in said development or subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from so doing or to recover damages or other dues for such violation.

Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

1. No structure other than family dwelling, not exceeding two and one-half stories in height, with one, two or three car garage shall be erected therein, except such as are hereinafter specifically set forth, except that Commercial buildings may be erected on those lots fronting the Pacific Highway, and the old River Road, on the west side of said plat.

2. Minimum set-back lines shall be as follows:

For all dwellings, garages and/or Commercial buildings, 20 feet on Pacific Highway, and old River Road; and 20 feet on Maple Drive.

All other outbuildings shall be located on the rear part of said lots, behind dwellings and/or Commercial buildings.

3. Garages may be built and occupied during the present War, and until one year thereafter, providing such garages conform to the general architecture of the dwelling to be thereafter erected.

4. Outhouses, poultry houses and Pump houses, may be erected in the rear of dwellings and/or Commercial buildings in said plat, but such buildings shall not be obnoxious or offensive in character and the exterior thereof shall be so constructed and decorated to conform with the other buildings; Play houses or Greenhouses shall be permitted along the same general plan in the rear of the main building.

5. No noxious or offensive trade or pursuit shall be carried on upon any tract therein nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

6. No negroes or orientals shall use or occupy any building or any tract therein, except that negroes or orientals may live upon said premises, when employed by owner or tenant as servants.

7. No dwelling costing less than \$2500.00 shall be erected on any tract in MAPLE GROVE, and no Commercial Building costing less than \$3500.00 shall be erected on those lots on the west side of said plat.

8. No fence or wall shall be erected to a greater height than four feet, except that suitable fences may be erected on rear portion for containing pets or poultry. All hedges shall be kept pruned back to a reasonable height.

9. Any restriction covering MAPLE GROVE may be changed or modified by the signed agreement or petition of 75% of the owners.

10. Until such time as a sanitary sewer system has been installed, all sewage disposal shall be by means of septic tanks of a type and in structure, construction and outlets in accordance with recommendations of the Oregon State Board of Health; and if and when a sanitary sewer system has been installed, that means of sewage disposal shall be used exclusively. In no event shall any overflow or drainage from such be permitted to appear above ground or drain into any street or road or any adjoining property.

11. These restrictions, shall also be construed as covenants and shall run with the land, and shall be binding upon all parties concerned until the 4th day of November, 1969; and that no breach thereof shall work a forfeiture of the land conveyed in fee simple, but that any such breach shall give the grantor or any owner of land in said MAPLE GROVE, the right to compel performance of these covenants, and to abate and remove any structure erected in violation thereof, through any court having jurisdiction thereof.

Witness their hands and seals this 4th day of November, 1944.

/s/ Beretta Leonard (SEAL)

/s/ H. E. Leonard (SEAL)

STATE OF OREGON)
) ss.
County of Clackamas)

BE IT REMEMBERED that on this 4th day of November, 1944, before me the undersigned, a Notary Public in and for said County and State, personally appeared the within named BERETTA LEONARD and H. E. LEONARD, wife a husband, who are known to me to be the identical persons described in an who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein mentioned.

WITNESS my hand and Notarial Seal the day and year above written.

/s/ S. A. Henderson
Notary Public for Oregon.
My commission expires Sept. 6, 1945

Recorded February 1, 1945.