

Contract Law Fundamentals

RENTAL AGREEMENT (For an Unfurnished House or Flat on an Assured Tenancy)

11. THE CLAUSE

Terms and Conditions

TENANCY AGREEMENT - ENGLAND (For an Unfurnished House or Flat on an Assured Shorthold Tenancy)

The PROPERTY

The LANDLORD

The TENANT

The GUARANTOR

The TERM

DATED

Signed and executed as a Deed by the following parties

Tenant

Landlord's signature(s)

Senate Bill 729 - Disclosures

- 21 other geologic hazard zone?]Yes]No]Unknown
- 22 *F. Has any portion of the property been tested
23 or treated for asbestos, formaldehyde, radon
24 gas, lead-based paint, mold, fuel or chemical
25 storage tanks, [or] contaminated soil or
26 water **or the manufacture or disposal of**
27 **illegal drugs?**]Yes]No]Unknown
- 28 G. Are there any tanks or underground storage
29 tanks (e.g., septic, chemical, fuel, etc.)
30 on the property?]Yes]No]Unknown
- 31 H. Has the property ever been used **or investigated**
32 **by law enforcement for use** as an illegal
33 drug manufacturing, [or] distribution **or**
34 **disposal** site?]Yes]No]Unknown
- 35 *If yes, was a Certificate of Fitness issued?]Yes]No]Unknown

Senate Bill 2534 - Discriminatory Provisions in CC&Rs

2 Relating to removal of discriminatory restrictions in governing documents; and prescribing an ef-
3 fective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 and 3 of this 2021 Act are added to and made a part of ORS 94.550**
6 **to 94.783.**

7 **SECTION 2. (1) On or before December 31, 2023, each homeowners association shall re-**
8 **view each governing document currently binding on the planned community, the lots or the**
9 **lot owners within the planned community and shall amend or restate each document as**
10 **necessary to remove all restrictions against the use of the community or the lots by a person**
11 **or group of persons because of race, color, religion, sex, sexual orientation, national origin,**
12 **marital status, familial status, source of income, disability or the number of families sharing**
13 **a dwelling unit within occupancy limits.**

14 **(2) Notwithstanding ORS 94.590 or 94.625 or any requirement of the declaration or bylaws,**
15 **an amendment to the bylaws or declaration under this section is effective and may be re-**
16 **corded without the vote of the owners or the board members if the amendment or restate-**
17 **ment includes a certification signed by the president and secretary of the association that**
18 **the amended or restated bylaws or declaration does not change that document except as**

House Bill 2550 - Buyer Love Letters

1 may list competing properties for sale without breaching any affirmative duty to the seller.

2 (5) Except as provided in subsection (3)(g) of this section, an affirmative duty may not be waived.

3 (6) Nothing in this section implies a duty to investigate matters that are outside the scope of
4 the real estate licensee's expertise, including but not limited to investigation of the condition of
5 property, the legal status of the title or the owner's past conformance with law, unless the licensee
6 or the licensee's agent agrees in writing to investigate a matter.

7 (7)(a) **As used in this subsection, "source of income" has the meaning given that term**
8 **in ORS 659A.421.**

9 (b) **Notwithstanding any other provision of this chapter, a seller's agent shall redact or**
10 **withhold any communication, including photographs, provided by a buyer as necessary to**
11 **help the seller avoid selecting a buyer based on the buyer's race, color, religion, sex, sexual**
12 **orientation, national origin, marital status, familial status or source of income as prohibited**
13 **by ORS 659A.421 and the Fair Housing Act (42 U.S.C. 3601 et seq.).**

14

Some Hypotheticals

- Sue Seller lists her property for \$500,000.
- Bill Buyer, on the telephone, says "I'll buy it for \$500,000"

Some Hypotheticals

- Sue Seller lists her property for \$500,000
- Bill Buyer, in writing, states he'll buy it for \$480,000

Some Hypotheticals

- Sue Seller lists property for \$500,000
- Bill Buyer accepts in writing, but orally tells Sue that the purchase must include the horses
- Closing occurs but Sue takes horses with her

370 Agreement.

371

DEFINITIONS/INSTRUCTIONS

372 **31. DEFINITIONS/INSTRUCTIONS:** (1) All references in this Sale Agreement to "Agent" and "Firm" shall refer to Buyer's and Seller's real estate
373 agents licensed in the State of Oregon and the respective real estate companies with which they are affiliated.

374 (2) Time is of the essence of this Agreement.

375 (3) Except as provided in Section 9, (Title Insurance) above, all written notices or documents, required or permitted under this Agreement to be
376 delivered to Buyer or Seller may be delivered to their respective Agent with the same effect as if delivered to that Buyer or Seller. Upon opening of
377 this transaction with the title company identified at Section 23 (Escrow), above, Buyer, Seller, and their respective Agents, where applicable, shall
378 provide Escrow with their preferred means of notification (e.g. email or text address, facsimile number, or mailing or personal delivery address, or
379 other), which shall serve as the primary location for receipt of all notices or documents (hereinafter, "Contact Location")

380 (4) Agent(s) and Firm(s) identified in the Final Agency Acknowledgment Section, above are not parties to this Agreement.

381 (5) A "business day" shall mean Monday through Friday, except recognized state and/or federal holidays.

382 (6) "Agreement" or "sale agreement" collectively shall be defined as this real estate sale agreement in its entirety and includes any written offer, counteroffer, or
383 addendum in any form or language that adds to, amends or otherwise modifies this real estate sale agreement that has been signed and accepted in
384 accordance with the requirements of item 7 herein.

Buyer Initials _____ / _____ Date _____

Seller Initials _____ / _____ Date _____

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LINES WITH THIS SYMBOL ← REQUIRE A SIGNATURE OF BUYER AND/OR SELLER AND DATE

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OREF 001

RESIDENTIAL REAL ESTATE SALE AGREEMENT – Page 8 of 11

Elements of a Contract

- Offer
- Acceptance
- Mutual Assent
- Consideration



Offers

- Promise
- Revocation
- Advertisements

Acceptance



- Express intent
- Manner of acceptance
- Communication of acceptance
- Counteroffers



Mutual Assent

Meeting of the Minds

A close-up photograph of a hand holding a thick stack of US dollar bills. The bills are fanned out, showing various denominations including \$20 and \$100 bills. The word "Consideration" is overlaid in large, bold, white, sans-serif font across the center of the image. The background is dark and out of focus.

Consideration

WARRANTY DEED -- STATUTORY FORM

JAMES L. CAMPBELL and NORMA L. CAMPBELL, as tenants by the entirety,
Grantor,

conveys and warrants to

J. GARTH ANDERSON, AN UNMARRIED MAN, Grantee,

the following described real property, free of encumbrances except as
specifically set forth herein, to wit:

LOT 20, BLOCK 25, OREGON WATER WONDERLAND UNIT 2, DESCHUTES COUNTY,
OREGON.

TOGETHER WITH A 1/1045TH UNDIVIDED INTEREST AS TENANTS IN COMMON IN THE
FOLLOWING DESCRIBED PARCELS: PARCELS E, F, G, H AND I.

Tax Account No(s): 125915

Map/Tax Lot No(s): 20-11-19-B-9900

This property is free from encumbrances, EXCEPT: All those items of record, if
any, as of the date of this deed, including any real property taxes due, but
not yet payable.

The true consideration for this conveyance is \$139,500.00 .

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT
IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR
ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY
SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY
APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST
PRACTICES AS DEFINED IN ORS 30.930.

Noted this 12th day of November 2000



\$53.00

00925276201300491640020024

12/02/2013 02:00:45 PM

D-D Cnt=1 Stn=4 SRB

\$10.00 \$11.00 \$16.00 \$10.00 \$6.00

PREPARED BY:

Kurt Jeffry Wilson
2324 NE Halston Ct
Bend, OR 97701

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO:

Theresa Ann Bens Wilson
2324 NE Halston Ct
Bend, OR 97701

MAIL TAX STATEMENTS TO:

Theresa Ann Bens Wilson
2324 NE Halston Ct
Bend, OR 97701

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS THAT:

THIS QUITCLAIM DEED, made and entered into on the 2nd day of December, 2013, between Kurt Jeffry Wilson, a married person, whose address is 2324 NE Halston Ct, Bend, Oregon 97701 ("Grantor"), and Theresa Ann Bens Wilson, a married person, whose address is 2324 NE Halston Ct, Bend, Oregon 97701 ("Grantee").

For and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby Remises, Releases, AND FOREVER Quitclaims to Grantee, the property located in Deschutes County, Oregon, described as:

Lot Twenty-one (21), BRECKENRIDGE, recorded June 1, 2007, in Cabinet H, Page 344, Deschutes County, Oregon.

Implied Contract Terms



- Good faith
- Reasonable time frames
- Workmanlike quality

Capacity to Enter Contracts

- Minor children
- Business entities
- Mentally incompetent
- Statutory incapacity

Contract Problems

- Fraud
- Misrepresentation
- Mistake
- Duress
- Unconscionability

Certain Contracts Are Invalid

- Evasion of taxes
- Criminal acts
- Usury
- Contracts promoting divorce
- Before 1916 - contracts requiring execution on Sundays





Oral Contacts

Statute of Frauds

- Sale of real estate
- Prenuptial agreements
- Broker agreements
- Leases for more than a year



Parol Evidence



Addendums

Contingencies & Conditions



Why Do We Use Contingencies?

[Read](#)

[Attorney Analyses 0](#)

[Citing Briefs 0](#)

[Citing Cases 41](#)

documents relating to the purchase of a residence. We agree.

[26, 27] Licensed real estate brokers and salespersons, when completing earnest money agreements, are required to comply with the standard of care of a practicing attorney. *Cultum v. Heritage House Realtors, Inc.*, 103 Wn.2d 623, 631, 694 P.2d 630 (1985). The language Tjoa inserted in the earnest money agreement was insufficient to protect Edmonds' interests with respect to the water problem and fell below the standard of care of a reasonable and prudent attorney in preparing a residential purchase and sale agreement. To protect Edmonds' interests, there should have been an identification of who was doing what work, the right to inspect the work, and to specify when the work was to be completed, the right to require that the work be done to the buyer's satisfaction, an assurance that the warranty was assignable to her, and the availability of other remedies. Further, as illustrated by this litigation, the language inserted by Tjoa was entirely insufficient to protect Edmonds' interest in purchasing a house with a dry basement.

Seller: Glenn Eisenach 2
Buyer: _____ 3
The real property described as: 4342 SE Monroe St. Milwaukie, OR 4

AGREEMENT TO SELL: 5

Seller agrees to sell the real and personal property upon the terms and conditions set forth in the Sale Agreement and subsequent counter offers where applicable, **except** as modified as follows: Purchase price to be \$234,000.00 6
closing date to be on or before 8
April 15th, 2016. Possession to be negotiable 9
at no cost to the seller. 11
For additional provisions, see Addendum _____ 12

All remaining terms and conditions of the Sale Agreement (and other counter offer(s), where applicable), not otherwise modified, are approved and accepted by Seller. Time is of the essence. This Seller's Counter Offer shall automatically expire on 3-11-16 at 3 a.m. p.m. 13
("the Counter Offer Deadline"), if not accepted within that time. If Buyer accepts this Seller's Counter Offer after the Counter Offer Deadline, it shall not be binding upon Seller unless agreed to by Seller in writing within _____ business days (two [2] if not filled in) thereafter by so indicating at the Seller's 14
_____ 15
_____ 16

269 Seller's and Buyer's Agents are not experts in FIRPTA and will not act as a transferor or transferee agent or "Qualified Substitute" for purposes
270 of the Withholding Requirement. If FIRPTA may apply in this transaction, Seller and Buyer should promptly consult their own experts familiar
271 with FIRPTA related the law and regulations. For further information, Seller and Buyer should go to: www.irs.gov.

272 **16. "AS-IS": Except for Seller's express written agreements and written representations contained herein, and Seller's Property**
273 **Disclosure, if any, Buyer is purchasing the Property "AS-IS," in its present condition and with all defects apparent or not apparent. This**
274 **provision shall not be construed to limit Buyer's right to implied new home warranties, if any, that may otherwise exist under Oregon**
275 **law.**

276

MISCELLANEOUS ITEMS

Sale Agreement # 12345**SELLER'S COUNTER OFFER No. 1**This is a counter offer to Sale Agreement or Buyer's Counter OfferSeller: Risa LesserBuyer: Scott LesserThe real property described as: 17238 SW Sandhill Lane, Sherwood, OR 97140**AGREEMENT TO SELL:**

Seller agrees to sell the real and personal property upon the terms and conditions set forth in the Sale Agreement and subsequent where applicable, except as modified as follows: 1) Sales price to be \$335,000.

2) Seller to contribute up to \$5000 of buyers closings costs and/or pre-paide.

3) Freezer in garage to be excluded from sale.

For additional provisions, see Addendum _____

All remaining terms and conditions of the Sale Agreement (and other counter offer(s), where applicable), not otherwise approved and accepted by Seller. Time is of the essence. This Seller's Counter Offer shall automatically expire on January 30 12:00 a.m. p.m. ("the Counter Offer Deadline"), if not accepted within that time. If Buyer accepts this Seller's Counter Offer after Offer Deadline, it shall not be binding upon Seller unless agreed to by Seller in writing within _____ business days (two [2] if not filled by so indicating at the Seller's Acknowledgement Section below. This Seller's Counter Offer may be accepted by Buyer only in writing. Seller may withdraw this counter offer any time prior to Buyer's written acceptance.

Seller acknowledges receipt of a completely filled in copy of Buyer's Offer and Seller's Counter Offer.

Seller makes the following counter-proposal (Note: Unless modified, all remaining terms of the Sale Agreement or the Buyer's Repair Addendum shall apply):

Seller agrees to repairs listed under PLUMBER: All items to be repaired (1.01 through 1.10)

Seller agrees to repairs listed under ELECTRICIAN: All items to be repaired (4.01 through 4.07)

Seller agrees to repairs listed under MOLD: Including mold remediation (with 5 yr warranty) and attic ventilation repaired to prevent future recurrence.

Seller agrees to repairs listed under WINDOWS: 3.01 and 3.02.

If the above repairs are acceptable to the Buyer, Seller will include \$3,000 one year old jacuzzi to be included in the sale of 983 F

5 **SELLER AND BUYER HEREBY AGREE THE FOLLOWING SHALL BE A PART OF**

6 **1) Earnest money shall be increased to \$159,000.00 in the form of cash depos**
7 **business days of written notification that First Right of Refusal has been waiv**

8 **2) Earnest money shall be immediately non-refundable and applicable to purc**

9

10 **All other terms and conditions shall remain the same.**

11

12

13

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19

6 *OREF-022A shall apply):*

7 **SELLER WILL HAVE THE FOLLOWING REPAIRS COMPLETED BY A LICENSED BONDED CONTRACTOR OF CHOICE:**

8 **1. Determine reason roof vent on garage are capped & repair as needed.**

9 **2. Add gravel to the driveway prior to close.**

10 **3. Replace roofs on home and garage shall be performed as follows:**

11 **Tear off existing composition, haul away and dispose of roofing debris. Install Architectural Composition Shingle over Synthetic**
12 **Underlayment. Apply (a type of OC Weatherlock Mat) ice & water shield leak barrier over entire roof area due to 3/12 pitch. Install**
13 **high-profile 10" rolled out continuous vented ridge, standard galvanized plumbing pipe flashings, pre-finished metal roof vents at ridge,**
14 **flapper/exhaust vents for bathroom fans, starter course, gable flashing and drip edge flashing. All vents and flashing shall be pre-finished**
15 **26 gauge steel and meet code requirements. In home, remove existing skylight and cover with sheeting. Dispose of existing skylight. In**
16 **garage, reuse existing skylight. If a vented ridge is used, the 6 roof vents on backside of garage roof are not needed. Vents are used**
17 **around fan vents (bathroom and/or kitchen where vented out the roof). Gray shingle will be used. Due to weather, the closing may need**
18 **to be extended to allow for roof replacements. Time frame TBD. Finish work inside, such as sheet rock, to be completed by buyer after**
19 **close.**

20 **Price reduction of \$2,500 in lieu of items 1, 2 & 4 on Seller's Response to Repair Addendum (This will be reevaluated, if necessary repairs**
21 **are called out by appraiser.) Buyer to repair these items after close and accept these repairs in it's current condition.**

22

23 For additional details, see Addendum _____

6 (Note: Buyer or Selling Licensee should promptly deliver this Repair Addendum to Seller
7 acceptance of this proposal, the parties may wish to consider a written extension of any a

8 **REPAIRS/CORRECTIVE ACTION REQUESTED BY BUYER:**

9 Buyer requests that Seller perform the following repairs and/or take other corrective action

10 (Note: Seller may request a copy of any inspections upon which the following items are
11 Action is beyond the scheduled closing date, the parties should identify a new closing date

12 1. Licensed plumber to fix or replace faucet in upstairs bathroom to ensure that the

13 2. Licensed plumber to tighten and fix leak at faucet in kitchen.

14 3. Licensed roofing contractor to cut in new roof vent for upstairs bathroom and re
15 seal all exposed nail heads at attic vents, pipe jacks and hip & ridge shingles.

16 4. Seller to provide operating carbon monoxide detectors, smoke alarms and smok
17 <http://www.oregon.gov/OSP/SFM>).

18 5. Seller to contribute \$6500 towards buyer's closing costs and pre-paid closing co

19 6. Seller to rent back thru August 11, 2016. See Occupy After Closing agreement.

20 7. Seller to close open permit on furnace installation with City of Portland.

21 8. Seller to provide DEQ certification on underground oil tank.

22 9. All other terms and conditions remain the same.

23
24 For additional details, see Addendum n/a

Tips

- Be Specific
- Reference Report
- Identify Who Performs Work
- Include Deadlines
- Have Re-Inspection Performed

No. 1 - "Buyer agrees
to purchase Seller's
Property for \$300k"

BUYER



Promise to Pay Price

Exchange

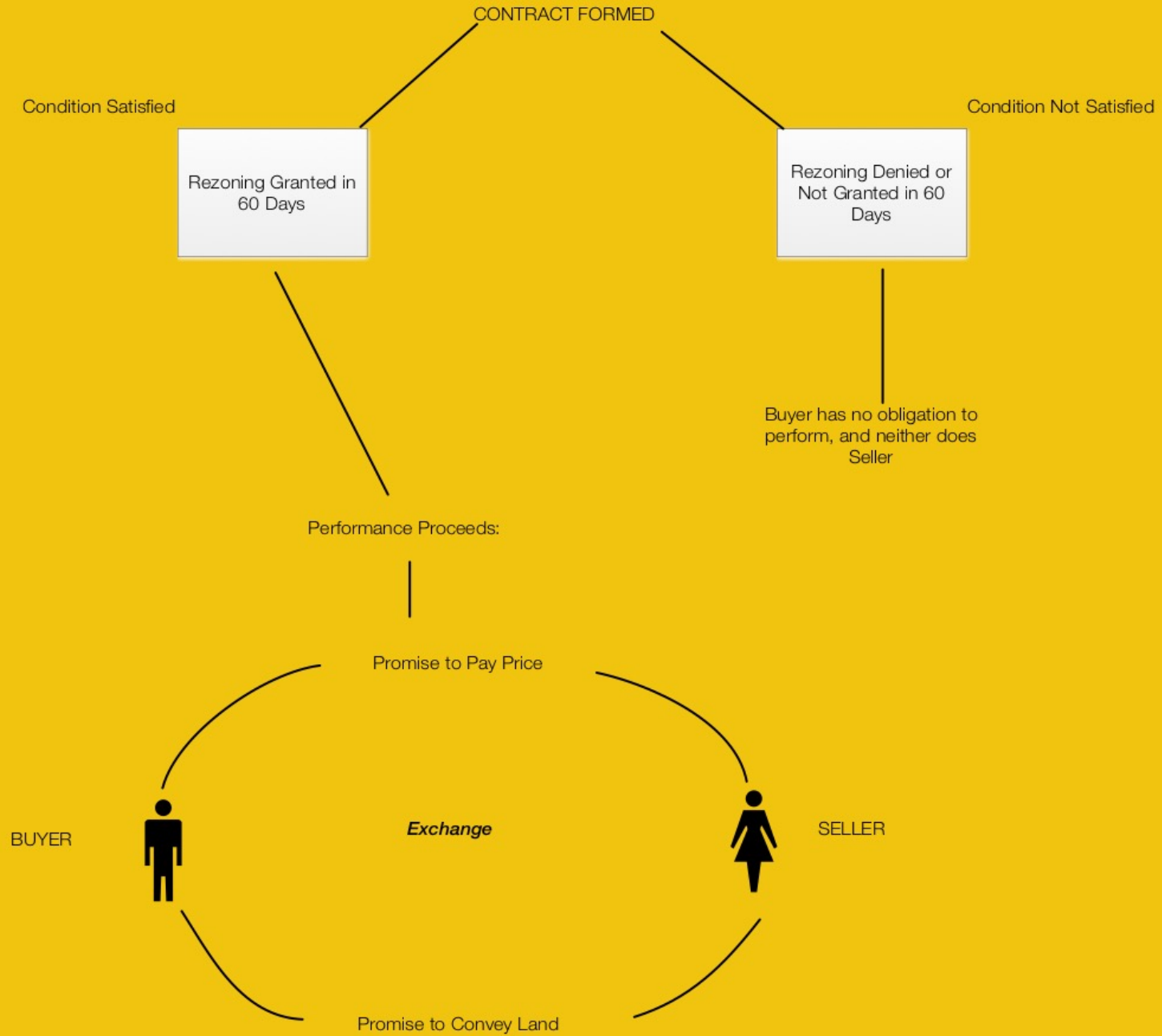
Promise to Convey Land



SELLER



No. 2 - "Buyer's obligation to purchase is conditional upon the grant of the rezoning application within 60 days"



No. 3 - "Buyer will pay
\$500k if zoning
application is approved
in 60 days, otherwise
Buyer shall pay \$200k"

CONTRACT

Condition Satisfied

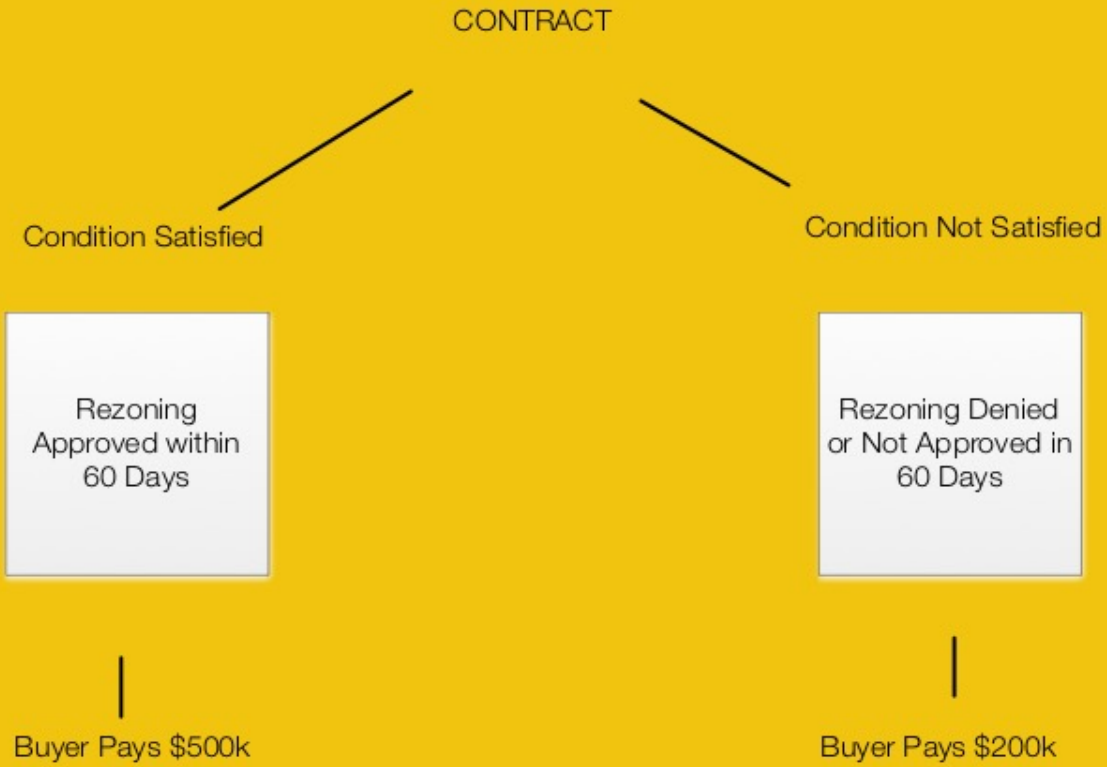
Condition Not Satisfied

Rezoning
Approved within
60 Days

Rezoning Denied
or Not Approved in
60 Days

Buyer Pays \$500k

Buyer Pays \$200k



No. 4 - "Buyer will
make good faith effort
to rezone property"

CONTRACT



Promise to Make Reasonable, Good Faith Effort

Promise Broken (No Reasonable Good Faith Effort)



Condition Not Satisfied but Breach of Promise Excuses Condition



Seller can enforce. If Buyer fails to perform, he breaches

Promise Honored (Reasonable Good Faith Effort)



Condition Satisfied (Rezoning Approved)



Buyer Must Perform. Contract in Effect



Condition Not Satisfied (Rezoning Disapproved)



Buyer Need Not Perform, Seller's Performance Also Goes Away

Damages

- Monetary
- Specific performance
- Recission
- Reformation





Statute of Limitations

433 **36. FILING OF CLAIMS:** All claims, controversies and disputes between Seller, Buyer, Agents, and/or Firms, relating to the enforcement or
434 interpretation of this Sale Agreement (including those for rescission), as well as those relating to the validity or scope of the Sale Agreement, and all
435 matters concerning the jurisdiction of the arbitrator(s) and/or Arbitration Service of Portland, to hear and decide questions of arbitrability
436 (hereinafter collectively referred to as "Claims"), shall be exclusively resolved in accordance with the procedures set forth herein, which shall
437 survive Closing or earlier termination of this transaction. All Claims shall be governed exclusively by Oregon law, and venue shall be placed in the county
438 where the real property is situated. Filing a Claim for arbitration shall be treated the same as filing in court for purposes of meeting any applicable
439 statutes of limitation or statute of ultimate repose, and for purposes of filing a *lis pendens*. BY CONSENTING TO THE PROVISIONS HEREIN,
440 BUYER AND SELLER ACKNOWLEDGE THAT THEY ARE GIVING UP THE CONSTITUTIONAL RIGHT TO HAVE CLAIMS TRIED BY A JUDGE
441 OR JURY IN STATE OR FEDERAL COURT, INCLUDING ALL ISSUES RELATING TO THE ARBITRABILITY OF SAID CLAIMS.

442 **37. EXCLUSIONS:** The following shall not constitute Claims: (1) Any proceeding to enforce or interpret a mortgage, trust deed, land sale contract or
443 recorded construction lien; (2) A forcible entry and detainer action (eviction); (3) If the matter is exclusively between REALTORS® and is otherwise
444 required to be resolved under the Professional Standards Ethics and Arbitration provisions of the National Association of REALTORS®; (4) If the
445 matter relates to a commission or fee with an Agent or Firm, and the written listing, service or fee agreement with Buyer or Seller contains a
446 mandatory mediation and/or arbitration provision; and (5) Filing in court for the issuance of provisional process described under the Oregon Rules of
447 Civil Procedure, provided, however, such filing shall not constitute a waiver of the right or duty to utilize the dispute resolution procedures described
448 herein for the adjudication of any Claims.

449 **38.1. SMALL CLAIMS BETWEEN BUYER AND SELLER:** All Claims between Buyer and Seller that are within the jurisdiction of the Small Claims
450 Court of the county in which the property is located, shall be brought and decided there, in lieu of mediation, arbitration or litigation in any other
451 forum. Notwithstanding ORS 46.455(3), neither Buyer nor Seller shall have a right to request a jury trial and so remove the matter from the Small
452 Claims Department of the Circuit Court. A judgment in Small Claims Court is final and binding and there is no right of appeal.

453 **38.2. MEDIATION AND ARBITRATION BETWEEN BUYER AND SELLER:** If Buyer's and/or Seller's Agent is a member of the National
454 Association of REALTORS®, all Claims shall be submitted to mediation as offered by the local Realtor® Association, if available. If mediation is not
455 available through the Agent's Realtor® organization, then all Claims shall be submitted to mediation through the program administered by Arbitration
456 Service of Portland ("ASP"). All Claims that have not been resolved by mediation as described herein shall be submitted to final and binding
457 arbitration in accordance the then-existing rules of ASP. The prevailing party in any arbitration between Buyer and Seller shall be entitled to
458 recovery of all reasonable attorney fees, filing fees, costs, disbursements, and mediator and arbitrator fees. Provided, however, a prevailing party
459 shall not be entitled to any award of attorney fees unless it is first established to the satisfaction of the arbitrator(s) (or judge, if applicable) that the
460 prevailing party offered or agreed in writing to participate in mediation prior to, or promptly upon, the filing for arbitration.

461 **38.3 MEDIATION AND ARBITRATION INVOLVING AGENTS/FIRMS:** All Claims that include Agents or their Firms shall be resolved in
462 accordance with the mediation and arbitration process described in Section 38.2 (Mediation and Arbitration Between Buyer and Seller) above, and
463 if applicable, the prevailing party shall be entitled to an award of attorney fees, filing fees, cost, disbursements, and mediator and arbitrator fees, as
464 provided therein.

Defenses to Breach of Contract

- Acts of god
- Illegal
- War
- Death
- Strikes





Kevin Harker

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